IFAR® Journal

INTERNATIONAL FOUNDATION FOR ART RESEARCH

Volume 21 Numbers 3 & 4 2022/2023

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The Scourge of Avant-Garde Fakes

Courbet & WWII Lost and Found

News & Updates

—and Much More ...

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IFAR Journal, ISSN 1098–1195, is published quarterly by the International Foundation for Art Research, Inc., 500 Fifth Avenue, New York, NY 10110. Subscription rates are $75 per year. POSTMASTER: Send address changes to the International Foundation for Art Research, Inc., 500 Fifth Avenue, New York, NY 10110.

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COVER: ***Figure of a king.*** Benin kingdom court style. Edo artist, Nigeria. 18th-19th century. Copper alloy. 41 x 17.1 x 15.2 cm Photo: Franko Khoury. National Museum of African Art, Smithsonian Institution. See story on p. 19.

FRAGONARD PORTRAIT REVIEWED BY IFAR IN 1970 REAPPEARS IN UTAH

In our commemorative 50th Anniversary issue of the *Journal,*[1] IFAR looked all the way back to 1970 and one of our first Art Authentication Research Service projects: a bust-length allegorical portrait submitted as a possible Fragonard **(FIG. 1).** The painting was one of a group of works submitted to IFAR for research by the estate of a deceased art collector.

FIGURE 1. Jean-Honoré Fragonard, *Allegorical Portrait of Mlle. Marie-Madeleine Guimard.* Oil on canvas. Submitted to IFAR's Authentication Research Service in 1970.

FIGURE 2. Jean-Honoré Fragonard, *Allegorical Portrait of Mlle. Marie-Madeleine Guimard as Prudence.* Oil on canvas (Utah Museum of Fine Arts, Salt Lake City).

The painting had been included in Georges Wildenstein's 1960 catalogue raisonné of Jean-Honoré Fragonard (1732-1806) as *Head of a Woman with a Looking Glass,* one of a series of oval overdoor paintings of young women dating to the 1770s. Wildenstein listed the original owner as Marie-Madeleine Guimard (1743-1816), a famous courtesan and ballerina at the Paris Opera. Her purported ownership of the painting naturally gave rise to the identification of the sitter as "La Guimard" herself, a celebrated muse whom Fragonard painted on several occasions.

IFAR's investigation of the painting involved scientific examination, including x-ray and infrared analysis, as well as examination by several distinguished specialists, and we ultimately confirmed its attribution to Fragonard. As we noted in our report, the painting had been enlarged at one time and had undergone significant restoration, but its "flowing composition, free and rather thin handling of the paint … and high keyed palette all recur in typical works " by Fragonard from the 1770s.

IFAR's attribution to Fragonard was reconfirmed in subsequent Fragonard catalogues raisonnés by Jean-Pierre Cuzin (1988) and Pierre Rosenberg (1989). In Rosenberg's catalogue, the subject is identified as *Allegory of Prudence,* relating it to two other oval allegorical portraits of *Force* (Detroit Institute of Arts) and *Vigilance* (Metropolitan Museum of Art). The association of the subject with Mlle. Guimard likely contributed to earlier interpretations of the painting as a representation of feminine vanity or, as one of IFAR's experts suggested, a depiction of Venus. In fact, the traditional representation of Prudence is of a young woman gazing at her reflection in a mirror, a symbol for the discernment of truth.

Neither Rosenberg nor Cuzin knew the whereabouts of the IFAR painting at the time of their publications, and until recently, neither did we. A chance discovery of a blog post written some time ago by Utah Museum of Fine Arts Curator Leslie Anderson,[2] made clear that Fragonard's painting was donated to the Utah Museum in 1993, where it was subsequently restored **(FIG. 2).** The painting had been donated by Val A. Browning, who presumably purchased it from the previous owner's estate after it had been authenticated by IFAR. Currently, the *Allegory of Prudence* can be seen along with *Force* and *Vigilance* on the Met Museum's website (www.metmuseum.org/art/collection/search/436327), but perhaps one day we will get the opportunity to see them hung together as Fragonard originally intended.

—LISA DUFFY-ZEBALLOS
IFAR Art Research Director

1 "The Early Years: Authentication Research" *IFAR Journal,* Vol. 20, nos. 3&4 (2020/2021), p. 19.

2 Leslie Anderson "What do the UMFA, the Met and the Detroit Institute of Arts have in Common? Jean-Honoré Fragonard" (Oct. 2016). www.umfablog.wordpress.com/2016/10/26.

• • •

WAS VAN GOGH'S *SUNFLOWERS* A NAZI FORCED SALE?

MENDELSSOHN-BARTHOLDY HEIRS SAY "YES" FOR THE VERSION IN JAPAN

FIGURE 1. Vincent van Gogh, *Sunflowers*. Oil on jute. 100 x 76 cm (approx. 39 ⅜ x 30 in.). December 1888–January 1889.

An ownership claim for one of several versions of Vincent van Gogh's iconic *Sunflowers* **(FIG. 1)** took a dramatic turn in December 2022 as thirty heirs of Paul von Mendelssohn-Bartholdy, a prominent banker in pre-WWII Berlin, challenged the legitimacy of the painting's 1987 sale to the Japanese insurance giant, Yasuda Fire and Marine Insurance Company.[1] Yasuda, the heirs say, engaged in fraudulent and willful misconduct by purchasing and then exploiting the painting despite knowing about its purported problematic provenance as the product of what they describe as a forced Nazi-era sale. They seek return of the painting from Yasuda's successor, Sompo Holdings, Inc., as well as approximately $750 million dollars!!! in punitive damages, along with another $690+ million for unjust enrichment and other alleged offenses. If the painting cannot be returned, they seek its fair market value, which they say is "not less than $250 million," including interest. In their 98-page complaint filed in U.S. District Court for the Northern District of Illinois, the heirs justify filing in Illinois by citing, among other things, Yasuda's commercial activities in the state and the temporary exhibition of the painting twenty years ago in the blockbuster 2001-02 *Van Gogh and Gauguin* exhibition,[2] co-organized by the Art Institute of Chicago and the Van Gogh Museum in Amsterdam, neither of which is a party to the suit **(FIG. 2).**

THE CLAIMS

Mendelssohn-Bartholdy acquired the Van Gogh in 1910, and consigned (or sold) it in October 1934 to the Paris art dealer Paul Rosenberg, with whom he had a long relationship. Rosenberg, who was Jewish and subsequently fled France for the U.S. to escape the Nazis, sold *Sunflowers* soon thereafter to the American collector, Edith Beatty (Mrs. Alfred Chester Beatty), who lived in London.[3] The work remained in the Beatty family for more than 50 years and was eventually put up for auction by the executors of the estate of Helen Chester Beatty, Alfred Chester's daughter-in-law, at Christie's, London in 1987 **(FIG. 3),** where Yasuda purchased it (in a phone bid) for a hammer price of £22.5 million, then equivalent to $36,292,500 USD,

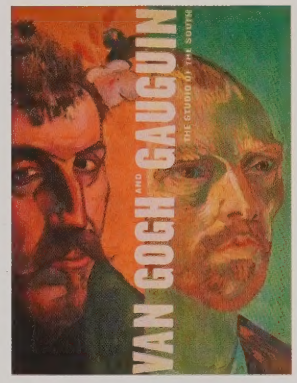


FIGURE 2. Cover of the catalogue for the 2001-02 *Van Gogh and Gauguin* exhibition at the Art Institute of Chicago.

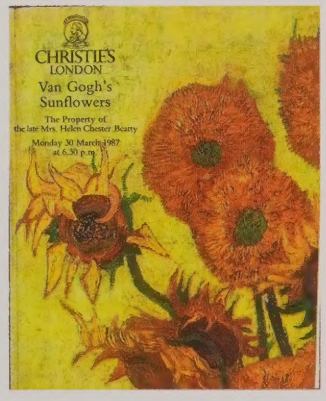


FIGURE 3. Cover of the March 30, 1987 Christie's London sales catalogue.

[1] *Schoeps v. Sompo Holdings, Inc.*, No. 22-cv-07013 (N.D. Ill. filed Dec. 13, 2022).

[2] *Van Gogh and Gauguin: The Studio of the South*, The Art Institute of Chicago, 22 September 2001-13 January 2002 and Van Gogh Museum, Amsterdam, 9 February–2 June 2002. The exhibit was curated by Douglas W. Druick and Peter Kort Zegers.

[3] Although Alfred Chester Beatty was still alive and the painting later went to his son by his first wife, the *Schoeps* legal documents only refer to Edith Chester Beatty.

the highest price for any work sold at auction up to that time (and considerably above the £14 million reserve). The sale was a media sensation. It was said at the time that Yasuda wanted it in order to replace another Van Gogh *Sunflowers* that was owned by a Japanese businessman, Koyata Yamamoto, and was destroyed by bombs during WWII **(FIG. 4).**

FIGURE 4. Photo c. 1935 showing Koyata Yamamoto (left) with the *Sunflowers* that was destroyed in WWII in Japan.

Mendelssohn-Bartholdy died of natural causes in May 1935, less than a year after he transferred the painting to Rosenberg for an as yet unknown (or unspecified) price. The legal documents do not assert that Mendelssohn-Bartholdy wasn't paid, although the heirs do say that he relinquished the painting at a time when the market was saturated with similar artworks and prices were depressed (no doubt also due to a worldwide Depression). They describe the Mendelssohn-Bartholdys as early targets of the Nazis, citing the family's banking business, Mendelssohn & Co., which was severely impacted by the Nazis and eventually closed in 1938, and other financial hardships he and the family endured after Hitler came to power in 1933.

Mendelssohn-Bartholdy was of Jewish descent, although not Jewish himself. He belonged to a distinguished family that included the noted German-Jewish Enlightenment philosopher and theologian, Moses Mendelssohn, and Moses' grandson, the great composer and prodigy, Felix Mendelssohn, who, as a child was baptized a Lutheran. Paul von Mendelssohn-Bartholdy was Felix's nephew, and his branch of the family converted to Christianity (Protestantism) more than 100 years before Hitler came to power. Paul's second wife, Elsa, who lived until 1986, was a non-Jew, and his gravestone in Brandenburg Germany is topped by a cross **(FIG. 5)**. Hitler, however, thought of Judaism as much in racial terms as religious, and banned Felix's music, and the Mendelssohn family, including Paul, which was prominent in the German-Jewish community, and the family bank, do appear to have been financial targets of the Nazis.

"No doubt, the question as to whether Paul received payment and whether the price was fair at the time will be an issue in the case. There is no evidence — or even suggestion — that the Van Gogh was seized by a Nazi or was ever in Nazi hands."

FIGURE 5. Photo of Paul von Mendelssohn-Bartholdy's gravestone.

It was these financial losses in the early years of the Nazi regime, the heirs assert, that led (or "forced") Paul to sell off parts of his extensive art collection, including *Sunflowers,* which he consigned to Rosenberg along with five other Van Gogh paintings (a sixth was later challenged as non-authentic). According to the heirs, the banker had never sold or attempted to sell any significant artwork prior to the Nazis in 1933, which, they say, supports their claim of a duress sale. No doubt, the question as to whether Paul received payment and whether the price was fair at the time will be an issue in the case. There is no evidence — or even suggestion — that the Van Gogh was seized by a Nazi or was ever in Nazi hands.

NOT THE FAMILY'S FIRST COURT FORAY

The Mendelssohn-Bartholdy name is familiar to longtime readers of the *IFAR Journal.* This is not their first lawsuit for works they say were sold under duress. In 2007, the same heirs, led again

Vincent van Gogh

Sunflowers

oil on extended canvas
39½ × 30¼in. (100.5 × 76.5cm.), extended
36⅜ × 28¾in. (92 × 73cm.), originally

Painted at the end of January 1889 (see introduction)

PROVENANCE:
Theo van Gogh, the artist's brother (1857-91), who received it as part of the consignment sent to Paris from Arles on 2 May 1889
Johanna van Gogh-Bonger, Theo's widow (1862-1925), from whom probably bought by Comte Antoine de La Rochefoucauld during the early 1890s
Comte Antoine de La Rochefoucauld (1862-1960), by 1901, and still in 1905
Amédée Schuffenecker, Paris, the artist Emile's brother, by 1907
Galerie Druet, Paris, 1908-10 (no. 4113, their label on the stretcher)
Paul von Mendelssohn-Bartholdy, Berlin, by 1910, probably bought from Galerie Druet
Galerie Paul Rosenberg, Paris, from whom bought by Edith Beatty in 1934
Sir Alfred (1875-1968) and Lady (Edith) Beatty, London
Chester Beatty (1907-1983), London and thence to his widow Helen (1911-86)

FIGURE 6. The painting's provenance as listed in the 1987 Christie's catalogue.

by Julius Schoeps, a Berlin resident, former professor, and great-nephew of Paul von Mendelssohn-Bartholdy, made a claim for two prominent Picasso paintings — *The Boy Leading a Horse* (1905-06) and *Le Moulin de la Galette* (1900) in New York's Museum of Modern Art and Solomon H. Guggenheim Museum, respectively.[4] The museums filed for summary judgment. When the court ruled that there was enough *preliminary* evidence for the claim to go forward to trial so a jury could decide on the facts, the parties reached a confidential pre-trial settlement in 2009, under which both paintings remained in the museums' collections, in return for an undisclosed payment.[5]

Another claim around that time was made by the Mendelssohn-Bartholdy heirs against the Andrew Lloyd Webber Foundation, on the eve of a November 2006 Christie's, New York auction for a 1903 Blue Period Picasso painting, which was expected to be one of the stars of the sale.[6] The court ruled that Julius Schoeps, the lead plaintiff in that case as well, did not have standing to file the claim and that the auction could proceed, but the painting was withdrawn from sale anyway. The parties eventually settled out of court.

In the case of the Van Gogh *Sunflowers,* the Mendelssohn-Bartholdy heirs allege that both Paul Rosenberg and Edith Chester Beatty were aware of the painting's problematic provenance, which Yasuda would have known too had it conducted due diligence before the purchase. There was nothing much in the provenance listed in the Christie's 1987 catalogue, however, that would have stood out at the time as a red flag, although the information concerning the transfers from Mendelssohn-Bartholdy to Rosenberg to Beatty is sketchy **(FIG. 6).** According to the complaint, this lack of due diligence was "reckless if not purposeful" and motivated by subsequent branding opportunities for the insurance conglomerate, all of which amounted to various counts of fraud and ultimately resulted in unjust enrichment. The complaint cites former Yasuda CEO Yasuo Goto's acknowledgement that the phenomenal publicity brought to the company through its ownership and display of *Sunflowers* would have cost them four times the price of the painting. Indeed, the heirs discuss in great detail how Yasuda's association with the painting positively influenced the company's corporate identity.

4 *Schoeps v. Museum of Modern Art,* 594 F. Supp. 2d 461 (S.D.N.Y. 2009). See, e.g., *IFAR Journal,* Vol. 12, no. 1 (2010), Shima Majidi and Sharon Flescher, "Mum's the Word on Picasso Settlements with MoMA, The Guggenheim and the Andrew Lloyd Webber Foundation." See also the case summary on IFAR's online Art Law & Cultural Property Database: www.ifar.org/art_law.php.

5 Upon the request of the judge, the museums were willing to reveal the amount of payment, but the heirs were not. The lack of transparency angered the judge, who felt the matters were of public importance.

6 *Schoeps v. Andrew Lloyd Webber Foundation,* 884 N.Y.S.2d 396 (N.Y. App. Div. 2009). The painting was Picasso's *Portrait of Angel Fernandez de Soto* and the sale was scheduled for November 8, 2006.

The claim relies heavily on the circumstances surrounding the 2001–02 exhibition at the Art Institute of Chicago ("AIC") and Van Gogh Museum in Amsterdam. Attached to the complaint are emails between the employees of the Yasuda Museum of Art (its successor is also a defendant), the AIC and the Van Gogh Museum, in which the Yasuda representative tells the museums about Yasuda's desire to check the provenance of the painting and concerns about seizure. This was, perhaps, not surprising, given that a WWII-related ownership claim for an Egon Schiele painting lent to MoMA in New York was making headlines at that time. While Yasuda's representative makes clear that he had no reason to think there was a Nazi-era taint, the company understandably requested loan agreement terms designed to protect its interests.

The heirs accuse the AIC (with no evidence) of submitting a false report to the U.S. Department of State as part of its application for immunity from seizure under the Foreign Immunity from Seizure Act, while the painting would be on loan. The AIC allegedly has refused to provide the heirs with the report attached to their application.

THE PAINTING

Sunflowers in vases are among Van Gogh's most iconic and recognizable images. He painted numerous versions while he was in Arles, in the South of France, in 1888-1889. The painting at issue is one of only three versions with a yellow background — yellow on yellow. Two of the versions are signed: one, executed in August 1888, is now in The National Gallery, London; another, painted in late January 1889, is in the Van Gogh Museum. The third, the Yasuda painting, is unsigned and has generally been dated as January 1889. The authors of the 2001-02 AIC exhibition catalogue, however, argue that the painting was executed in early December 1888.[7] Unfortunately, there are no corresponding letters to his brother Theo or others to substantiate either date. Unlike the August 1888 and late January 1889 versions, which are painted on canvas, the yellow on yellow Yasuda *Sunflowers* is painted on jute — a burlap-like support used by both Gauguin and Van Gogh, when the two artists were living together in the Yellow House in Arles in autumn 1888. When the painting was auctioned in 1987, the absence of a signature, along with the fading of the chromium yellow paint, initially raised concerns, but it clearly didn't affect the price.

[7] See, e.g., page 240 of the AIC exhibition catalogue: "It was most likely in early December [1888] that Vincent reprised the sunflowers on a yellow background, using (as Gauguin did for his portrait) a canvas cut from the remaining jute, primed with a lead white ground. Seeing this version of the *Sunflowers* as a product of this particular juncture, … helps to explain several apparent anomalies. Vincent did not mention it in his correspondence, but he did not reference any pictures after 4 December; he did not sign it, but in fact he signed only two works on jute. It departs stylistically from its August predecessors to a certain extent, but it is consonant with other November/December works …"

THE MOTION TO DISMISS

The heirs' rationale for filing the claim in Illinois, which included the temporary exhibit at the AIC twenty years before, was seized upon by Sompo in its response. On April 27, 2023, Sompo sought to have the case dismissed, challenging subject matter jurisdiction, specific personal jurisdiction, and the convenience (or inconvenience) of the forum. Its arguments at this dismissal stage are procedural and jurisdictional, with barely a mention of the events in 1934. Julius Schoeps, the company argues, lacks standing. Under Illinois law, Sompo says, survival claims of the heirs must be brought by an executor or administrator representing the estate, and the Mendelssohn-Bartholdy heirs lack the necessary "letters of office issued in Illinois" to qualify as such representatives. Sompo cites the 2006 Andrew Lloyd Webber Foundation case, in which the New York court found that the individual heirs of Mendelssohn-Bartholdy (essentially the same heirs as in this case) did not have standing; Illinois law, they note, is similar to New York law on this point.

The insurance giant also contends that the court lacks specific personal jurisdiction over the company's entities, which, they say, have no substantial connection with Illinois and should not be subject to the state's long-arm statute. The crux of the company's argument lies in the fact that neither the heirs' alleged conversion claims, nor their exploitation claims stem from any of the insurance company's activities

in Illinois. Sompo Holdings and Sompo Bermuda maintain that they do not possess or control *Sunflowers;* the painting is currently on display at Tokyo's Sompo Museum of Art, which is managed by the Sompo Fine Art Foundation. The company claims that the Foundation's oversight of the museum is not enough to establish control over the painting.

Nor do the specific contacts alleged by the heirs meet the threshold for jurisdiction. Only an indirect subsidiary of Sompo Bermuda sells insurance from a Chicago office, and these activities are unrelated to the claims. Moreover, Sompo says, its advertising in the U.S. is not targeted specifically to Illinois residents nor does it conduct any business activities within the state. According to Sompo, general or national advertisements alone do not establish specific personal jurisdiction in Illinois.

The company also argues that using the *Sunflowers* image as part of its corporate identity or branding is not sufficient grounds for jurisdiction, since the heirs' claims pertain to the physical painting rather than the image. Any potential claim to the image, moreover, is moot, as the painting has been in the public domain since at least 1960. Sompo asserts in addition that the temporary, brief exhibition of *Sunflowers* at the AIC does not create a substantial connection to Illinois.

Sompo additionally maintains that, should Illinois attempt to exercise personal jurisdiction over the company, it would infringe upon the due process clause for several reasons. Primarily, subjecting the foreign-based Sompo entities to jurisdiction in Illinois would prove inconvenient and burdensome, and the state's interest in *Sunflowers* is minor, stemming only from its brief exhibition. Lastly, securing relief for the heirs may not be convenient or even effective, given that Sompo is located in Japan.

Sompo pleads that, in the alternative, the case is subject to the common law doctrine of forum non conveniens, which allows a federal district court to dismiss a case over which it has jurisdiction to better serve the convenience of the parties and the ends of justice. In this case, the company argues, Japan is the appropriate forum to hear the dispute, as most of the alleged bad acts were committed in Japan by Japanese persons, and nearly all the witnesses and documents are there.

The conglomerate adds that Japan is an available and adequate forum and that its legal system blends the American trial equivalent with the American discovery equivalent, and Japanese courts recognize civil causes of action for damages. Sompo even cites the Seventh Circuit decision in *In re Factor VIII or IX Concentrate Blood Products Litig.,* 484 F.3d 951 (7th Cir. 2007), which has recognized that the investigatory powers of judges in a civil law system, such as Japan, are significant.

In sum, considering private and public interest factors, Sompo argues that Japan is a more suitable forum for this case; and that both private and public factors favor dismissal in favor of Japan's courts. As it happens, the heirs' complaint *specifically* requests that Japan be ruled out as the forum (Japan is generally viewed as a less favorable forum to plaintiffs in an ownership claim).

WHAT IS NEXT?

During the scheduling conference call on May 1, 2023, the heirs indicated that they will amend the claim and add Sompo Japan Insurance, Inc. as a defendant since this entity was identified by Sompo as the current owner of the painting. While Sompo has not objected to this request, the conglomerate responded that another motion to dismiss will follow the amended complaint. The next day, the court granted the parties' requests and noted that Sompo's first motion to dismiss shall be terminated as moot upon the heirs' filing of the amended complaint.

—SHARON FLESCHER
IFAR Executive Director

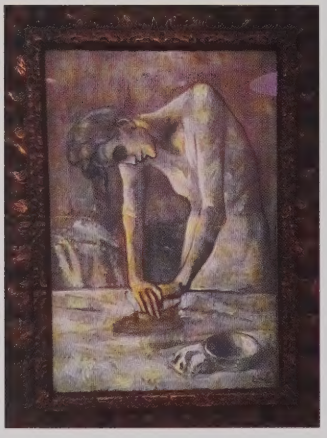
and

POLINA IVKO
IFAR Legal Research Consultant

• • •

"DURESS" AT ISSUE IN RESTITUTION CLAIM AGAINST GUGGENHEIM FOR PICASSO'S *WOMAN IRONING*

The legal battle launched in January in state court in New York between the heirs of Karl and Rosa Adler and The Solomon R. Guggenheim Foundation over the ownership of Picasso's *Woman Ironing* in the Guggenheim Museum[1] demonstrates, once again, how complicated, and even thorny, art restitution claims can be for artworks said to have been sold under duress during the Nazi era[2] — even well known works long in the public eye.



Pablo Picasso, *Woman Ironing,* 1904. Oil on canvas. Coll. Solomon R. Guggenheim Museum. 45 ¾ x 28 ¾ inches. © 2023 Estate of Pablo Picasso, Artists Rights Society (ARS), New York.

As restitution claims go, this is a big one, involving one of the most famous paintings by one of the greatest artists of the 20th century, from arguably his most sought-after period, the Blue Period, and worth, according to the Plaintiffs, $100 - $200 million.

The Adlers, prominent and wealthy Jewish art collectors in pre-WWII Germany, acquired the 1904 oil painting in 1916 from Heinrich Thannhauser, the owner of an art gallery in Munich. Thannhauser was also Jewish. In June 1938, the Adlers fled Nazi Germany. Karl, an industrialist, tried to raise funds to escape Europe for his ultimate destination, Buenos Aires, but the transfer of funds out of Germany required official approval and took time, and entry into Argentina was not immediate, resulting, the heirs say, in extra costs for the Adlers, who needed to take temporary refuge in the Netherlands, France, and Switzerland, thereby incurring significant financial loss. Four months after leaving Germany, Karl sold the Picasso in October 1938 to Justin K. Thannhauser, Heinrich's son, who was also a dealer then living in France. The price, the plaintiffs say, was CHF 6,887 — an amount that is disputed by the museum — which was equivalent at the time to about $1,552 USD and $32,000 today. The heirs allege that the sale was made under duress, and that the Adlers would not have sold the painting for what they say was below its value had it not been for the need to raise funds to flee the Nazis.

The Picasso has long been a prized possession of the Guggenheim. Justin Thannhauser, who also fled the Nazis and lost many of his artworks, left Paris in 1939 and came to the U.S. in 1940. He stayed until 1971 and died in Switzerland in 1976, bequeathing *Woman Ironing* to the Guggenheim Foundation (which oversees the museum), along with 74 other Modern masterworks in his collection. The intended bequest was announced in 1963. The Guggenheim accessioned the painting in 1978, and the painting has been on public display at the Thannhauser Gallery in the museum ever since. Rosa Adler died in 1946, and Karl followed in 1957, without leaving a will. In 1958, a German court issued a certificate of inheritance, declaring the Adlers' three children — Carlota de Landsberg, Eric Rudolf Adler, and Juan Jorge Adler — as the intestate heirs. The plaintiffs in the current case are Carlota's grandson, Thomas Bennigson, and nine nonprofit organizations and seven individuals, who are residual heirs of Eric and Juan Jorge Adler.

The heirs are now seeking the painting's return or compensation equivalent to its current market value, which, as noted, they estimate to be between $100 and $200 million. They are suing for replevin, conversion, unjust enrichment, and declaratory relief. The Guggenheim Foundation, however, insists that *it* is the rightful owner of the painting and has refused to return it.

At issue is the very definition of duress. Courts have ruled variously on this subject, depending on the jurisdiction and the facts (see

1 *Bennigson et al. v. The Solomon R. Guggenheim Foundation,* No. 650416/2023 (NY Sup. Ct. January 20, 2023). As *IFAR Journal* was at press, an Amended Complaint was filed on May 22, 2023.

2 See article by David D'Arcy, "Duress — Whose Duress? Different Jurisdictions, Divided Views and Conflicting Rulings," *IFAR Journal,* V. 21, nos. 1&2 (2002).

fn.#2). To what degree must the sellers have been in direct danger for their lives at the time of the sale? Is it relevant that the Adlers were safely out of Nazi Germany at the time of the sale? Does it matter that the buyer (Thannhauser in this instance) was Jewish and did not coerce the sale (although the heirs assert that he should have known he acquired the work at what they say was below market value)? Was the buyer a Nazi, and was there an implied threat? Was payment received? Did the seller view the sale as legitimate at the time, and in the war's immediate aftermath? How does one define "below market value" in a volatile market? The context of the Holocaust makes these questions more delicate and nuanced. To what degree should the economic and social pressures placed on Jews, whose businesses and properties were seized by the Nazis, be taken into account by the courts?

In their Motion to Dismiss the complaint, filed on March 2, the Guggenheim argues that the claim for the Picasso "fails on its merits." There is "no legal basis," they assert, to void the sale, which took place 85 years earlier. "There is no allegation that the Nazi officials seized or looted the Painting or played any role in the transaction." Moreover, they add, the heirs don't even "dispute that Adler received and retained the proceeds. Nor do they allege the sale took place in Germany or any area under Nazi control …[nor is there any] allegation that Adler ever viewed the sale as improper or illegitimate."

On the contrary, the Guggenheim points out, Adler and his children, the last of whom died in 1994, believed that Thannhauser "lawfully acquired" the Picasso and never "made any effort to recover" the Picasso or challenge the transaction. In fact, the family continued to deal with Thannhauser. Adler's daughter Carlota, for example, entrusted Thannhauser with a Picasso of her own, which later factored into a restitution claim that IFAR wrote about.[3] To hammer its points in, the Guggenheim underscores that in 1974, before it accessioned the Picasso in 1978, it reached out to the Adler family and no objection to the bequest and acquisition was made at that time.

On a legal basis, the Guggenheim points to two previous cases, a 2006 case concerning a painting by Edvard Munch, in which the New York court didn't allow an estate "to speculate, some 70 years after the fact," that [a painting that the seller himself did not regard … as having been stolen] might have been misappropriated,"[4] and a more recent claim against the Metropolitan Museum for Picasso's *The Actor,* whose fact patterns bear striking similarity to the Adler claim.[5] In the *Zuckerman* case, a federal court in New York, under what the Guggenheim says is "well-established New York law," ruled that duress doesn't apply when there is no allegation that the "counterparty" to the sale, in this instance Thannhauser, exerted an "unlawful threat that left Adler with no choice but to sell," even granting the financial pressures placed by the Nazis upon Adler at the time. If this weren't sufficient, the Guggenheim also asserts the equitable defense of laches, saying that the Adler heirs' undue delay in filing their claim unfairly prejudices the museum, given that Thannhauser and other witness are no longer alive.

"At issue is the very definition of duress. Courts have ruled variously on this subject, depending on the jurisdiction and the facts."

It remains to be seen whether the *state* court in this New York case asserting duress to reclaim a Picasso from the Guggenheim will agree with the *federal* court in New York in *Zuckerman* in the case to reclaim a different Picasso at the Metropolitan Museum, and rule in favor of the museum.

—S.F.

3 The Picasso at issue in that claim was *Femme en blanc,* of 1922. The case was: *Bennigson v. Alsdorf,* (Cal. Super. Ct. June 16, 2003); aff'd, No. B168200 (Cal.Ct. App. Apr.15, 2004); dismissed, No. S124828, (Cal. Nov. 30, 2005). See also: *United States v. One Oil Painting entitled "Femme en Blanc" by Pablo Picasso,* 362 F. Supp. 2d 1175 (C.D. Cal 2005) and *Alsdorf v. Bennigson,* No. 4-cv-5953 (N.D. Ill. 2004). For IFAR's articles, see: Sharon Flescher, "Settlement over Picasso's *Woman in White,*" *IFAR Journal,* V7, nos. 3&4 (2004/2005).

4 *In re Peters,* 34 A.D. 3d 29 (1st Dep't 2006).

5 *Zuckerman v. Metropolitan Museum of Art,* No. 1:16-cv-07665 (S.D.N.Y. Feb. 7, 2018), aff'd, No. 18-634 (2d Cir.N.Y. June 26, 2019), cert denied, No. 19-942 (U.S. Mar.2, 2020). See, Stephanie Keim and Sharon Flescher, "The Actor Retains Leading Role at the Met — for Now," *IFAR Journal,* V20, nos. 1&2, 2019 and also V. 17, no. 4, 2017.

COURT RULES FOR HOWARD UNIVERSITY OVER CHARLES WHITE'S *CENTRALIA MADONNA*

Charles White, *Centralia Madonna,* drawing on paper, 1947. © Charles White Archives

Howard University, a Historically Black College and University (HBCU) in Washington, DC, recently won a legal battle against a North Carolina couple, Larry and Virginia Borders, to reclaim a lost artwork by Charles White, who was an artist-in-residence at Howard in 1945.[1] The case revolved around White's 1966 colored pen and ink drawing *Centralia Madonna* (also known as *African American Madonna*) **(FIG. 1),** which had gone missing from Howard in the 1970s and reappeared in 2020 when it was consigned for sale at Sotheby's, New York. The court not only had to balance the equities, but also take into consideration the difference between the statute of limitations in New York, North Carolina, and Washington, DC.

Charles White (1918-1979) was a prominent Black artist and educator from Chicago. Educated at the Art Institute of Chicago and the Art Students League in New York, he frequently depicted African American figures in large-scale drawings and prints, as well as in easel and mural paintings. Relatively unknown outside of the art world until recently, White's works have appeared in major museums, including the Museum of Modern Art in New York and the Smithsonian American Art Museum in Washington, DC, and prices of his works have escalated.

White's *Centralia Madonna* was acquired by Howard University in 1947 after White completed his artist residency. The University did not report the loss at the time it went missing. More than forty years later, Larry and Virginia Borders consigned it to Sotheby's for a June 26, 2020 sale, where it was estimated at $300,000–$500,000. The couple claimed to have received the work as a gift early in their marriage and later said they had no knowledge of its importance until they saw similar works on the PBS television program *Antiques Roadshow.*

Sotheby's discovered the ownership problem in the course of its pre-sale due diligence, pulled the work from sale, and alerted the university, which then requested the work from the Borders, alleging that it had been stolen from the Howard Gallery of Art sometime between 1974 and 1976. The Borders refused, and Howard subsequently filed suit in June 2020 in the U.S. District Court for the Southern District of New York. The Borders denied all allegations, claiming that the university knew of the missing artwork long before, and that they themselves were unaware of the provenance issues until Sotheby's contacted them. The Borders argued that Howard's delay in reporting the drawing as missing or stolen and its failure to take any action over all these years constituted laches, a legal doctrine that prevents a party from bringing a claim that prejudices the opposing party due to an unreasonable delay in asserting it. The Borders also asserted their own claims against Howard, including slander of title and tortious interference with a contract.

Howard filed a motion to dismiss the counterclaims, arguing that the Borders could not provide evidence that the university acted with malice or reckless disregard in its statements to Sotheby's, which were privileged anyway. Additionally, Howard claimed that the Borders failed to provide specific contractual terms that had been breached — as required by New York law — and thus, could not show tortious interference with the Sotheby's consignment agreement.

After some initial back-and-forth between the parties, the court ordered Howard to produce documentation pertaining to the drawing and the full extent of communications with the auction house in response to the Borders' motion to compel discovery.

In May 2021, Howard filed a summary judgment motion, arguing that its claims were timely under

1 *Howard University v. Borders,* No. 1:20-cv-04716 (S.D.N.Y., Oct 20, 2022).

New York law governing the statute of limitations in the context of art law cases. Howard further contended that its actions in relation to the drawing were reasonable. The Borders opposed the motion, citing the statute of limitations for replevin in North Carolina and the District of Columbia, which would have run, and reasserting their laches defense.

In March 2022, the court found Howard's claims timely under New York's Demand and Refusal Rule, where the statute of limitations does not start running until a demand for return is made and is then refused. The court also found that the university had established a threshold showing of a claim to ownership, thereby shifting the burden of proof to the Borders to show that the drawing had left the university's possession lawfully. The court allowed the claim of laches to move forward with the bench trial, which occurred in the fall of 2022.

Ultimately, in October 2022, the district court judge, Lewis Liman, ruled in favor of Howard, finding that the Borders' defense of laches did not bar the university's replevin claims and to quiet title in the work. Judge Liman also found that although there were equities on both sides, and the Borders' situation was not unsympathetic, the balance of equities tipped "ever so slightly in favor of Howard." He acknowledged that there was no evidence that the Borders knew or believed the artwork to have been stolen. Therefore, Howard prevailed on each of the claims, and its title was affirmed. The Borders did not appeal, and the case has been closed.

— **P. I.** and **S. F.**

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CPAC (THE "OTHER" ONE) MEETS TO REVIEW IMPORT RESTRICTIONS

NEW REQUESTS FROM N. MACEDONIA AND UZBEKISTAN AND RENEWAL REQUEST FROM CAMBODIA

PENDING RENEWAL REVIEWS FOR CHINA AND BULGARIA

On the heels of its meeting in July 2022, and a long list of approved new and renewed bilateral agreements in 2021 and 2022 — with Morocco, Turkey, Greece, Egypt, and others (see *IFAR Journal*, V21, nos. 1&2) — the Cultural Property Advisory Committee (CPAC) met again from January 30–February 2, 2023. This time, it reviewed an extension request from the Government of Cambodia and first-time requests from the Governments of North Macedonia and Uzbekistan to impose import restrictions into the U.S. for designated archaeological and ethnographic cultural objects from these countries considered at risk of pillage.

The bilateral agreements, otherwise known as Memoranda of Understanding, or MOUs, are enacted pursuant to the U.S. Cultural Property Implementation Act (CPIA) of 1983, which is the implementing legislation for U.S. acceptance of the 1970 UNESCO Convention.[1] Except for "emergency" agreements, the agreements remain in effect for 5 years, and can be renewed for an unlimited number of 5-year terms, so long as the countries continue to satisfy four determinations laid down by Congress. Currently, there are 30 agreements in place,[2] including emergency agreements with Afghanistan, Yemen and Iraq, and excluding two agreements, with Canada and Nicaragua, that expired and were not renewed.

As *IFAR Journal* was going to press, another CPAC meeting was

[1] The full title is the UNESCO 1970 Convention on the Means of Prohibiting and preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

[2] See the State Department website: https://eca.state.gov/cultural-heritage-center/cultural-property/current-agreements-and-import-restrictions and also IFAR's online Art Law & Cultural Property Database: https://www.ifar.org/art_law.php.

"At the January–February meeting, there were 70 public comments submitted in all. The largest number concerned Cambodia, a country that has in recent years actively asserted its rights to cultural objects removed during its long years of internal unrest."

scheduled for June 5-6, to consider proposed MOU extensions from China and Bulgaria. The current agreements with both countries expire in 2024. We will cover these requests in the next *IFAR Journal.*

THE JANUARY–FEBRUARY 2023 MEETING

The three requests considered at the January-February 2023 meeting were extremely wide ranging and broad in scope. **North Macedonia's Request**, for example, seeks restrictions on objects "ranging from 300,000 BC to the 20th century AD, including from the prehistoric periods …, classical antiquity, Medieval, the Ottoman Period, … and the Modern Era." The restricted archaeological material includes "ceramics; stone; metal objects including coins; bone and ivory; and glass and faience …"

Similarly, **Uzbekistan's request** seeks U.S. import restrictions on "archaeological material dating from the Paleolithic period (50,000 BC) to the 18th century," and encompasses periods and cultures from Ancient Bactrian, to Greco-Bactrian, to Uzbek. Ethnographic material is even broader in range of objects, if not periods, as the proposed restrictions range in date only from the 7th century to 20th century (1917), but encompass artworks (paintings, drawings, engravings, decorative works of art — made of glass, clay, wood, metal, bone, and so on).

The **Government of Cambodia's request** seeks a 5-year extension of its existing restrictions, plus newly added categories of both archaeological and ethnographic materials, including "stone (sculpture, architectural materials, stelae, brick sculpture, jewelry, and stone tools);" and metal, such as "statues, ritual and domestic objects, … weapons and tools, and coins …" Included in the amended items are "archaeological objects of ethnic and religious minority cultures found throughout Cambodia."

For a fuller list of the proposed restrictions, see the State Department Bureau of Educational and Cultural Affairs November 23, 2022 announcement of the Jan–February meeting.

THE PUBLIC COMMENTS

At each of the CPAC meetings to review foreign requests, the public is permitted to submit comments for and against the proposed new agreements or extensions. In recent years, the comments have followed a familiar pattern. The bulk of the "protests" against the requests have come from numismatists/ coin collectors and dealers, represented by the Ancient Coin Collectors Guild and the International Association of Professional Numismatists (the latter were joined in their written comments at the January 30–February 2, 2023 meeting by the American Numismatic Association). They have objected to the fact that ancient coins increasingly appear on the designated list of prohibited items, despite the fact that coins, in their opinion, are neither archaeological nor ethnographic "cultural" objects and were minted in large numbers with the *intention* of being circulated outside the countries of origin. Therefore, the argument goes, they do not satisfy the substantive requirements of the CPIA and shouldn't be considered part of the cultural heritage of any particular country. Whatever the correctness of their argument, it appears to be a losing one at this point, given the number of MOUs in which coins are now included. In fact, almost every request in the last few years has included a restriction on coins.

At the January – February meeting, there were 70 public comments submitted in all. The largest number concerned Cambodia, a country that has in recent years actively asserted its rights to cultural objects removed during its long years of internal unrest. The pages of the *IFAR Journal* are replete with stories of stone sculptures repatriated to Cambodia by American and European museums and collectors, both voluntarily and through litigation. There is much sympathy with that country, and the sympathy is reflected in the numerous positive comments submitted to the Committee reviewing Cambodia's renewal and extension request. To a certain

extent, the main debate this year concerned the degree to which the current U.S. import agreement/ MOU — first signed under an "emergency" basis in 1999, and then enacted in 2003, renewed in 2008, and renewed and amended again in 2013 and 2018 — has actually helped the problem, and whether Cambodia can do more on its side. Even some supporters in favor of renewing the agreement with Cambodia admitted that looting in Cambodia is still taking place. That said, it is a reasonable guess that before Cambodia's current MOU expires in September of this year, it will be renewed.

Most of the 70 comments submitted were relatively brief, and were submitted by individuals — scholars, collectors, dealers, curators, and many archaeologists — most of whom were in favor of the requests for U.S. restrictions. Several of the longer briefs were submitted by organizations, such as the coin dealers mentioned above, individually and via their member organizations, which raised objections to the requests; and The Antiquities Coalition and Cultural Heritage Watch — both of which supported the requests. The AAMD (Association of Art Museum Directors) came down essentially in support of Cambodia's renewal request, as it had in 2018, although it refrained from commenting about the country's proposed expansion request, stating that the description is "too generic" for it to review.

The most substantive written Comment — a 20-page critique in opposition to the request by Uzbekistan — was jointly submitted by the Committee for Cultural Policy ("CCP) and the Global Heritage Alliance ("GHA"). It was signed by attorney Kate Fitz Gibbon, a former member of CPAC herself. In essence, they don't believe that the request meets the requirements set down under the CPIA, and, more damning, they assert that the U.S. and CPAC are being asked to "give cover to an official policy of State seizure of private property in the past and control of private property in the present. Unsubstantiated claims of significant 'looting'," they continue, "should not be used to ratify a State's control of its citizens' private property …" They then go on to explain their reasoning. Needless to say, not all the other submitted Comments agreed, but CPAC will have to consider these cogent and strong arguments. As this is a new request, rather than an existing agreement about to expire, there is no urgency to the deliberation process. Time will tell and we will keep our readers informed.

—S.F.

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LETTERS TO THE EDITOR

REMINDER

"Letters to the Editor" are welcome in *IFAR Journal*. Please keep letters brief. We reserve the right to edit for length. All letters must be signed. Please mail letters to: Dr. Sharon Flescher, Editor-in-Chief, *IFAR Journal* 500 Fifth Avenue, Suite 935, New York, NY 10110

DISPUTE OVER VAN GOGH LENT TO DETROIT ENDS WITH IMMUNITY FROM SEIZURE LAW INTACT

Vincent Van Gogh, an artist whose popularity keeps growing, factors into several current legal cases, such as the claim for one of his *Sunflowers,* discussed earlier in this *Journal* issue.

FIGURE 1. Vincent van Gogh, *The Novel Reader (Une liseuse de romans),* November 1888. Oil on canvas. 73 x 92 cm (28¼ x 36¼ in.)

Another example is the just-ended dispute over his 1888 oil painting, *The Novel Reader* **(FIG. 1),** which was lent to the Detroit Institute of Arts (DIA) for the blockbuster *Van Gogh in America* exhibition (October 2022-January of 2023), and was claimed, while there, by Brokerarte Capital Partners LLC, a Florida entity solely owned by a Brazilian collector, Gustavo Soter.[1] That lawsuit came to a close on April 10, and when it did, the U.S. museum community breathed a collective sigh of relief, as the Federal Immunity from Seizure Act of 1965 (22 U.S.C. 2459), which appeared to be in jeopardy as a result of the case, was left intact. The Act (see below) allows museums to borrow artworks from foreign countries for temporary exhibit without fear of seizure while they are in the United States.

Unlike many ownership suits today, this one did not concern the Nazi era. The painting – also known as *Une liseuse de romans* – was lent to the exhibition anonymously; the owner identified in the exhibition catalogue as "Private Collector, Sao Paolo." Brokerarte claimed ownership of the painting, however, and on January 10, 2023 filed suit in federal court in Michigan against the museum and, consequently, the unidentified lender, to recover the painting. The museum denied any wrongdoing and filed a motion to dismiss the case. The district court ruled in favor of the museum, but Brokerarte appealed, and on February 6, the Sixth Circuit granted Brokerarte's emergency motion for an injunction pending the appeal. It ordered the museum to retain possession of the painting in the interim.

After Brokerarte and the unidentified lender came to a confidential settlement in March, it asked the Sixth Circuit court to dismiss the case, and it "seemed" to be over (and was announced as over in many news articles). BUT the DIA opposed the request, arguing that to leave the part of the February 6 decision that pertained to the Federal Immunity from Seizure Act (FISA) unaddressed, might appear to favor Brokerarte, and, moreover, would have a chilling effect on all U.S. museums borrowing works from foreign lenders in the future. The DIA had applied for protection under the Act before borrowing the painting. Many in the museum community agreed. The Association of Art Museum Directors (AAMD), American Alliance of Museums (AAM), and dozens of individual U.S. art museums large and small requested to intervene and file a joint amicus (friend of the court) brief in support of the DIA.

On April 10, the court granted the DIA's motion to vacate its earlier order when it also granted Brokerarte's motion to dismiss the case. When the Sixth Circuit dissolved its previous order for the DIA to hold onto the painting, it cited the "many amici museums" who pushed it to do so.

THE COURT BATTLE

The contested Van Gogh, depicting a young woman reading a French 19th century novel (identifiable as such by its cover) while seated at a brightly lit table, was last sold publicly at auction at Christie's New York on November 3, 2010 for more than $3 million to an unidentified purchaser. The paint-

[1] *Brokerarte Cap. Partners, LLC v. Detroit Inst. of Arts,* No. 23-CV-10066, 2023 WL 348331 (E.D. Mich. Jan. 20, 2023); *mot. to dismiss granted,* No. 23-01062 (6th Cir. Apr. 10, 2023).

ing had a robust provenance that included distinguished collectors, such as John Hay Whitney. The Detroit exhibition was not the first time it was exhibited in a major American exhibition. The painting was exhibited at MoMA in New York in 2008 and also at the Art Institute of Chicago's *Van Gogh and Gauguin* exhibition in 2001-02, the same exhibition where the contested *Sunflowers* discussed elsewhere in this *Journal* issue was also exhibited.

In its suit, Brokerarte said that it bought the painting from a Cayman Islands company Torrealba Holdings Ltd. in May 2017 for $3.7 million, and that it [somehow] kept the painting in the hands of a third party in Brazil and that it eventually went missing. (As this may be difficult to fathom, the words in the Complaint were, "Since Plaintiff [Brokerarte] purchased the Painting in May 2017, Plaintiff has not known the location of the Painting.") Brokerarte allegedly discovered the painting's whereabouts only when it was on view at the DIA.

As already noted, the DIA had obtained immunity for the painting under the Federal Immunity from Seizure Act (FISA) from the U.S. Department of State, which determined that the inclusion of 27 foreign loans, including this Van Gogh, into the DIA's exhibition was in the national interest of the U.S. and published the notice of determination in the Federal Register (which is accessible to the public).

Brokerarte argued that the painting was unlawfully obtained by the unidentified lender, and that the DIA should have known or suspected its allegedly murky provenance. Brokerarte further claimed that the DIA's inclusion of the painting in the exhibition constituted conversion, negligence, and breach of bailment. The DIA denied any wrongdoing and argued in its motion to dismiss the case that, in essence, it had obtained immunity for the painting and had no duty to disclose the identity of the lender.

The case hinged, in part, on the scope of immunity afforded to museums by the FISA, which was enacted in 1965, at the height of the Cold War, to allay fears that cultural objects on loan from outside of the U.S. might be seized while in the U.S. A particular concern was potential seizures by communist regimes, such as the Soviet Union. Museums must apply for immunity under FISA in advance. Once granted immunity, an artwork cannot be seized even by the U.S. government and even if there is a genuine dispute over ownership or possession.

The Act received overwhelming bipartisan support from both chambers of the Congress and was passed unanimously in the House and the Senate. President Lyndon B. Johnson, recognizing its importance in promoting cultural exchange and protecting American interests, signed it into law the same day it was passed – July 19, 1965. Since then, the Act has been amended several times to strengthen and expand its protections. It has also been interpreted and applied in a variety of legal cases over the years as courts and attorneys have grappled with the complex issues surrounding ownership and transfer of cultural objects.

"The case hinged, in part, on the scope of immunity afforded to museums by the Federal Immunity from Seizure Act (FISA) ..."

In this Detroit case, the Federal District Court for the Eastern District of Michigan, Southern Division, ruled in favor of the DIA in January 2023, denying Brokerarte's motion for possession while the case was pending (filed concurrently with the complaint) and dismissing the case. Applying a four-factor balancing test used by Michigan courts in similar instances, the district court concluded that the DIA met the FISA requirements to enjoy its protections, and had even gone beyond the requirements by performing due diligence to determine the painting's provenance. Presiding Judge Steeh cautioned that mandating museums to bear the burden of such claims would be against the intent of the Act and would have a chilling effect on cultural exchanges with the U.S. He also opined that Brokerarte had no likelihood of success on the merits anyway, as there was no legal basis for its claims.

Brokerarte filed an appeal and submitted an emergency motion for an immediate injunction pending an appeal with the Sixth Circuit,

which was promptly granted, ordering the DIA to retain possession of the Van Gogh. The DIA opposed this motion, arguing that Brokerarte had no likelihood of success on the merits and that the injunction would harm the museum and other similar institutions engaged in cultural exchanges. Brokerarte countered that it *would* succeed, as the U.S. administration's decisions are not owed total deference under the Act. In February, the Sixth Circuit granted the injunction, reasoning that Brokerarte would be irreparably harmed if the painting were returned to the anonymous lender.

"The DIA stressed that an outcome to the contrary would … discourage foreign lenders from lending culturally significant objects to American institutions."

Despite having already filed its appellate brief in support of its appeal, Brokerarte submitted a motion for a voluntary dismissal of the case on March 13, 2023, informing the court that it had entered into a confidential settlement agreement with the individual who was believed to be the lender of the painting, and, therefore, Brokerarte no longer wished to pursue the claims.

This settlement could have brought the legal battle to a close right then and there; however, the museum opposed the motion, asserting that Brokerarte was seeking dismissal to avoid an unfavorable ruling and preserve the uncertainty caused by the earlier injunction. The museum asked the court to deny Brokerarte's motion and enter a judgment affirming the district court's ruling, or, in the alternative, enter an order vacating the injunction pending appeal and declaring it null and void without any precedential or persuasive authority. The DIA refreshed its previous argument that Brokerarte filed the litigation in direct contravention of the FISA and the way that FISA has been interpreted for nearly 60 years. Moreover, the museum said, the court forcing it to act as an escrow agent for the painting caused it to incur significant time and legal fees (which, the museum said, exceeded $100,000). Lastly, the DIA stressed that an outcome to the contrary would impair the interests of the U.S. and discourage foreign lenders from lending culturally significant objects to American institutions.

"This settlement could have brought the legal battle to a close right then and there; however, the museum opposed the motion, asserting that Brokerarte was seeking dismissal to avoid an unfavorable ruling and preserve the uncertainty caused by the earlier injunction."

As mentioned above, the U.S. government along with the Association of Art Museum Directors (AAMD), the American Alliance of Museums (AAM), and dozens of individual art museums asked to intervene and filed a joint amicus brief in support of the DIA. These requests were granted by the court on March 28.

In April, the Sixth Circuit granted Brokerarte's motion for dismissal of the case with prejudice (i.e., Brokerarte cannot bring the claims again) and granted the DIA's motion to vacate the court's February 6 order, finding that leaving it unvacated could significantly affect the operations of the museums. The court also added that "the DIA bore no responsibility whatever for rendering the case moot" when justifying the grant of their motion. So, Brokerarte was made whole in the settlement and the museum, in essence, helped eliminate a potentially ominous opinion.

— **P. I.** and **S. F.**

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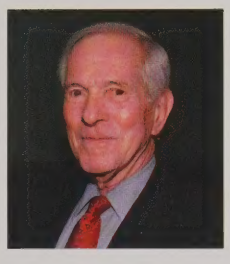
IN MEMORIAM



JACK A. JOSEPHSON

Egyptologist; Scholar; Businessman; Wise Counselor; Friend
IFAR Chairman (1997–2014) and Board Member (1989–1997)
Chairman Emeritus (2014–2022)

One of the saddest—and, recently, all too frequent—parts of my job at IFAR is saying "good-bye" in the *IFAR Journal* to illustrious members of our Board and Council. This is one of those times. So, it is with great sorrow that I, on behalf of everyone at IFAR, announce the October 22, 2022 death of our Chairman Emeritus and longtime Chairman, Jack A. Josephson. Jack was a true gentleman and a scholar, and an important figure in IFAR's history.

We learned of Jack's death too late to include an In Memoriam in our last *IFAR Journal*, but we did post an announcement on our website (ifar.org) and, fortunately, Jack lived long enough to contribute his "Greetings" to readers of our special 50th Anniversary issue of the *Journal*. It gave him great pleasure to be included in that *Journal* issue and he took pride in playing such an important role in our history. One of my last notes from him, in fact, concerned that issue.

Although Jack's loss hit everyone at IFAR very hard, I can say that it was especially hard for me. It was Jack, who, as a then new Chairman of the Board, hired me as Executive Director in 1998. He was fond of saying, as he did again in his *Journal* Greetings, that his "finest accomplishment" as IFAR Chairman was hiring me. (Imagine!) It warmed my heart to know that.

Jack Josephson joined IFAR's Board in 1989 and served as Chairman of the Board (following Arthur Altschul) for more than 16 years, from December 1997 to June 2014, at which point he remained involved as Chairman Emeritus. A retired businessman, Mr. Josephson was also a respected Egyptologist, a Distinguished Visiting Professor at the American University of Cairo, a member of the Board of Governors of the American Research Center in Egypt (ARCE), a longtime member of the Board of the Brooklyn Museum, and a noted collector, several of whose artworks are now in major museums. Notably, he was also the Presidentially-appointed Chairman of the U.S. Cultural Property Advisory Committee (CPAC) for 5 years from 1990–95, when it was under the auspices of the USIA, before it became part of the U.S. State Department. In April 2008, he appeared on an important IFAR Evening panel devoted to CPAC, at which time he discussed some of the differences between CPAC during his tenure and subsequently. (The edited proceedings of that panel were published in V.10, nos. 3&4 [2008/2009] of the *IFAR Journal*.)

During the pandemic, Jack moved full time to his weekend home on Shelter Island, which made seeing each other more difficult. But we stayed in touch.

Jack was a trusted and wise leader, who is fondly remembered and sorely missed. We send sincere condolences to his beloved wife, Dr. Magda Saleh, and his entire family.

—SHARON FLESCHER
Executive Director, IFAR

IN MEMORIAM

DAVID MITTEN

CLASSICAL ARCHAEOLOGIST, CURATOR, SCHOLAR, TEACHER
Member, IFAR'S Art Advisory Council, 1979–2022

WE WILL MISS YOU!

Photo: © Tony Rinaldo.

ADVERTISEMENT

ROBERT MOTHERWELL DRAWINGS: A CATALOGUE RAISONNÉ

BY KATY ROGERS

November 2022, Yale University Press

This project was realized with the support of the Dedalus Foundation.

Robert Motherwell, *Untitled*, 1967. Ink and graphite on acetate, 14 × 10 7/8 in. (35.6 × 27.6 cm). The Museum of Modern Art, New York. Gift of the artist. Artwork © 2022 Dedalus Foundation, Inc. / Artists Rights Society (ARS), NY. Digital image © The Museum of Modern Art/ Licensed by SCALA/Art Resource, New York.

YEARS AFTER FRANCE'S PLEDGE TO RETURN COLONIAL LOOT, WHERE DO EUROPEAN AND U.S. MUSEUMS STAND?

SMITHSONIAN RETURNS 29 OBJECTS
AAMD ISSUES GUIDANCE ON ART FROM COLONIZED AREAS
LAUNCH OF THE DIGITAL BENIN DATABASE
GERMANY-NIGERIA REACH HISTORIC AGREEMENT

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The legacy of colonial rule includes more than the killing of millions of people and the stripping of natural resources. Due to the pervasive removal of art and cultural property, untold numbers of objects displaced under colonial regimes are held in collections around the world and circulate on the art market. Years after the 2018 publication of the groundbreaking Sarr-Savoy Report, "The Restitution of African Cultural Heritage. Toward a New Relational Ethics"[1] — which urged restitution of items of African cultural heritage acquired under violent or inequitable colonial conditions — some governments and institutions have adopted policies and restituted objects. As standards for reconsidering objects removed under colonial rule are starting to emerge, many museums and institutions in the U.S. and Europe search for a path forward for their colonial collections in relatively uncharted territory.

French President Emmanuel Macron brought renewed attention to this subject in a 2017 speech in Burkina Faso, declaring it unacceptable that a large share of African cultural heritage is held by French museums and saying that he wanted "the conditions to exist for temporary or permanent returns of African Heritage to Africa" within five years.[2] Those conditions are now coming into focus, although the details are developing slowly.

The discussion concerning restitution of objects improperly displaced during colonial rule is not new.[3] In 1978, for example, Director-General of UNESCO Amadou-Mahtar M'Bow issued an appeal for return of cultural heritage "to those who created it" — stressing that some nations have been robbed not only of "irreplaceable masterpieces" but have also lost "a memory which would doubtless have helped them to a greater self-knowledge and would certainly have enabled others to understand them better."[4]

The newfound momentum to address this longstanding issue is perhaps generational, as those who continue to be privileged by the legacies of colonialism are finally having to reckon with its painful history.

Following his speech, President Macron issued a mandate to Senegalese economist and writer, Felwine Sarr, and French art historian, Bénédicte Savoy: study the history of French colonial looting in sub-Saharan Africa, identify the objects in French national collections acquired under colonial rule, and recommend

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1 Felwine Sarr and Bénédicte Savoy, "The Restitution of African Cultural Heritage. Toward a New Relational Ethics," (November 2018), (official English translation of French Report).

2 Emmanuel Macron's speech at the University of Ouagadougou (Nov. 28, 2017), https://www.elysee.fr/emmanuel-macron/2017/11/28/emmanuel-macrons-speech-at-the-university-of-ougadougou.en.

3 "Restitution" means return to the owner, whereas "repatriation" means return to the country of origin. We use the term restitution in this article as the more encompassing term, noting that the correct use of "repatriation" depends on the sovereign status of the claimant.

4 UNESCO, "A Plea for the Return of an Irreplaceable Cultural Heritage to those who Created It," (June 7, 1978).

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procedures for considering restitution or other solutions. The Sarr-Savoy Report addressed the brutality and theft that took place under colonial rule and suggested sweeping solutions. In researching their Report, Sarr and Savoy also uncovered documentation about demands for restitution voiced in the decades after colonial independence — effectively silenced in the European narrative, though not forgotten by the countries who have continued seeking return of their art and cultural objects.[5]

By some estimates, as much as 90% of the cultural objects created in sub-Saharan Africa remain outside the continent.[6] As Director-General M'Bow described in 1978, these losses have been detrimental to former colonies, depriving those who live there today of the ability to appreciate these objects and use them to educate their youth. For objects taken through violence or duress, their display in museums in Europe and the United States constitutes a continuing reminder of that violence and ensures that the histories continue to be written from the perspective of the former colonial powers. As Sarr and Savoy put it: "The great museums of Europe are at once the conservationists of incredible human creativity and the receptacles of what often amounts to a violent dynamic of appropriation that is still largely poorly understood" (pp. 14–15).

In the United States, four years after publication of the Sarr-Savoy Report, recent guidance from the Association of Art Museum Directors (AAMD) picks up many of the themes from Sarr and Savoy's Report, providing standards and methods for addressing colonial collections that U.S. museums have no doubt been anxiously anticipating.

THE SARR-SAVOY REPORT

The Sarr-Savoy Report made sweeping recommendations for addressing the 90,000 or more objects from sub-Saharan Africa presently housed in French national collections, 70,000 of which reside in the Musée du quai Branly–Jacques Chirac in Paris (p. 44). Through these recommendations, the Report sought to create a new atmosphere of cooperation, suggesting that France negotiate bilateral agreements with its former colonies to govern the restitution process. Many of these displaced objects were taken as spoils of war or trophies during military operations; others derive from scientific or pseudo-scientific expeditions, or were acquired by colonial administrators or their associates through inequitable transactions. Some objects removed during the colonial era circulated into private collections and were later donated to French museums.

Recognizing that the criteria for restitution must reflect the conditions of an object's transfer out of the continent, Sarr and Savoy categorized the sub-Saharan African objects in French collections accordingly (pp. 49–61). For objects seized in military contexts, the Report recommended that requests for restitution be favorably received despite the existence of legal barriers to claims, such as the absence of a national law allowing restitution of objects in national collections, the expiration of a statute of limitations, or questions about whether any dispossession violated the laws of the time, particularly under international law. The Hague Convention, for instance, which codified the prohibition on pillaging cultural artifacts during times of armed conflict, was not adopted until 1899, post-dating the removal of many objects looted under colonial rule. Sarr and Savoy also recommended favorable treatment of claims for objects acquired during supposedly "scientific" expeditions and those donated by private collectors unless there is explicit evidence of consent. Finally, Sarr and Savoy recommended research and restitution for objects improperly acquired after 1960 (the year the first 17 African nations became independent) in those instances where there were proven conditions of illicit trade.

The Report also considered some of the more structural barriers to restitution, the most significant being the principle in French law that objects in national collections are legally inalienable and museums can only return objects where a specific law allows it.

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5 This information was later published in a book: Bénédicte Savoy, *Africa's Struggle for Its Art: History of a Postcolonial Defeat* (Princeton: Princeton University Press, 2022), pp. 1–3. (Susanne Meyer-Abich, translator).

6 Sarr-Savoy Report p. 3. Subsequent page references to the Report will appear in parentheses within the article text.

Because inalienability poses the greatest legal obstacle to restitution of objects in French state-owned collections, Sarr and Savoy proposed amending French law to allow for exceptions where a bilateral agreement is in place between France and an African nation. France has yet to enact such an exception or to enter into any bilateral agreements with its former colonies.

FRANCE'S PROGRESS

Now, four years after publication of Sarr and Savoy's Report, France has seen only limited movement toward achieving Macron's goals, although the Report has made a substantial impact outside of France, motivating other countries and institutions to begin to address their colonial collections. In December 2020, the French Parliament approved the first permanent restitutions—of a sword to Senegal (which had already been transferred on loan) and, to the Republic of Benin, 26 works seized by French troops in the 1892 sack of the Abomey Palace in the Kingdom of Dahomey (now part of the modern-day Republic of Benin).[7] (France previously refused to restitute those same 26 objects to Benin in 2016 (before the publication of the Sarr-Savoy Report), pointing to the inalienability of state-owned collections.)

In 2020, France also returned the crown of Ranavalona III **(FIG. 1),** the last queen of Madagascar,

FIGURE 1. ***"Crown" of Queen Ranavalona III.*** Golden zinc top ornament for a ceremonial canopy used by Queen Ranavalona III of Madagascar when declaring war against France in 1895. On long-term loan from France to Madagascar, but still officially in the Musée de l'armée, Paris. Ph. Wikipedia.

"... the requirement that separate legislation be passed for each restitution from a French national collection means that progress will continue to be slow."

on long-term loan without requesting or receiving the approval of France's Parliament. France, however, still has not passed legislation to make this return permanent. The crown, more precisely a crowning of a royal canopy, is still officially in the collection of the French Army Museum.

While these returns are significant on their individual merits and as precedent, the requirement that separate legislation be passed for each restitution from a French national collection means that progress will continue to be slow. Any broader measures, such as creation of the joint commissions between France and individual former colonies seeking to recover their cultural heritage, contemplated by Sarr and Savoy, have yet to be realized.

PROGRESS ELSEWHERE IN EUROPE

Since publication of the Sarr-Savoy Report, Germany and Nigeria signed a historic repatriation agreement; the Netherlands approved a plan for widespread restitution; and most recently, the United Kingdom issued new museum guidance on repatriation (although not specifically focused on colonial collections). Uniform standards in Europe have yet to develop, although the European Union or UNESCO could provide a forum for developing more consistent rules.

The United Kingdom

Given the magnitude of its colonial empire and the prominence of its museums, any policy the United Kingdom adopts will no doubt be influential. Yet the British Museum and U.K. museums generally have been reluctant to restitute works of art or to address more broadly the question of colonial dispossessions, so progress has been sporadic.

The Benin bronzes (an estimated 3,000 objects actually made of various materials, such as copper alloy, wood, terracotta, ivory, and iron) constitute the most notorious of the disputed objects, and the largest number are in British hands **(FIG. 2).** The British looted them during the 1897 sacking of Benin City from the Kingdom of Benin in what is now

[7] The French 1892 attack and the British sacking of Benin City (in today's Nigeria) in 1897 are two of the most frequently discussed raids of this type, with works taken during these raids being the subject of continuous calls for restitution.

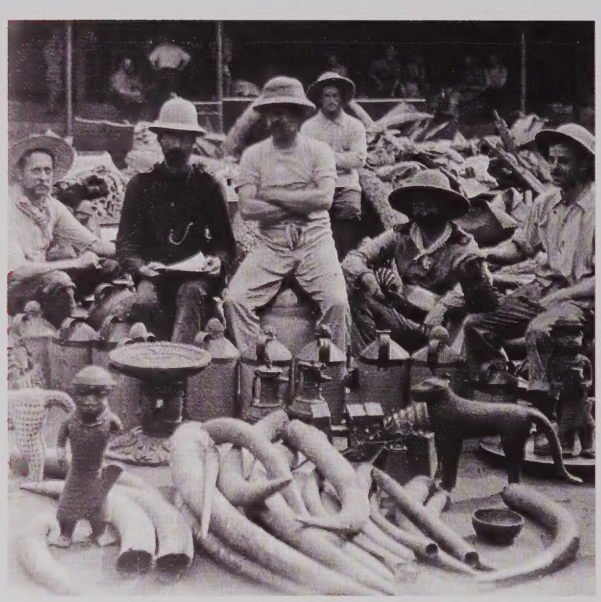

FIGURE 2. Nigeria: British soldiers with looted art during the punitive Benin Expedition of 1897. Ph: CPA Media Pte Ltd / Alamy Stock Photo.

Nigeria; the spoils from that sanguinary raid can be found at the British Museum and other institutions and private collections in Europe and the U.S. Because of their artistic excellence and the violence of their taking, the Benin bronzes have come to symbolize the colonial repatriation movement much as the Parthenon marbles embody the broader question of cultural property dispossession.[8] A German foundation's launch of the Digital Benin database in November 2022 will likely be pivotal in the restitution process for these works. By providing a list of institutions where Benin bronzes are currently located and their provenance information, the database will facilitate restitution claims.[9]

In 2018, the British Museum announced that it would loan certain bronzes to the planned Royal Museum in Benin City, Nigeria, once the new museum is completed.[10] The announcement grew out of an agreement brokered through the Benin Dialogue Group — a working group of museum directors and representatives from Nigeria, the Royal Court of Benin, and several European countries. Famed Architect Sir David Adjaye designed the museum to "facilitate a permanent display reuniting Benin works of art dispersed in collections around the world."[11]

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In August 2022, the Arts Council England, which oversees the museum sector, released long-awaited advice for English museums: "Restitution and Repatriation: A Practice Guide for Museums in England."[12] The guidance is similar to repatriation policies published elsewhere, recommending provenance research, transparency and accessibility, and the development of restitution and repatriation policies. The guidance then builds a framework for museums to work through restitution claims and authorizes making returns for compelling ethical reasons, even if not strictly required by law. The guidance does not address colonial collections specifically, leaving museums to craft their own policies on that issue or make returns on a case-by-case basis.

Recent changes to the Charities Act authorize museums in the U.K. to restitute lower-value objects on moral or ethical grounds, even if there is no legal basis for restitution, or to repatriate more valuable objects for moral reasons with approval from the Charity Commission, Attorney General, or the courts. As of this writing, however, these amendments appear to be too controversial and their implementation has been deferred.[13]

Even before the recent guidance from Arts Council England, some regional U.K. institutions have begun addressing objects removed during colonial rule.

8 *See* Dan Hicks, *The British Museums: The Benin Bronzes, Colonial Violence and Cultural Restitution* (London: Pluto Press, 2020).

9 The Digital Benin database can be viewed at: https://digitalbenin.org/.

10 https://www.cnn.com/2018/11/26/africa/africa-uk-benin-bronze-return-intl/index.html.

11 "Press Statement on the Meeting of The Benin Dialogue Group," (July 11, 2019), https://www.tropenmuseum.nl/nl/press-statement-meeting-benin-dialogue-group-1.

12 Arts Council England, "Restitution and Repatriation: A Practical Guide for Museums in England" (2022), https://www.artscouncil.org.uk/supporting-arts-museums-and-libraries/supporting-collections-and-cultural-property/restitution-and.

13 Alexander Herman, "Museums, restitution and the new Charities Act," The Institute of Art & Law (Sept. 25, 2022), https://ial.uk.com/museums-restitution-and-the-new-charities-act/.

"... some regional U.K. institutions have begun addressing objects removed during colonial rule. Oxford and Cambridge Universities, for example, approved the return of 213 Benin bronzes ..."

Oxford and Cambridge Universities, for example, approved the return of 213 Benin bronzes, reflecting a possible sea change in museum attitudes in the U.K. on the issue of restitution, even without broader guidance for U.K. museums or concurrence of the British Museum.

The Netherlands

Dutch efforts to address the country's colonial collections are being spearheaded by attorney and human rights activist Lilian Gonçalves-Ho Kang You. A 2020 Dutch Advisory Committee report recommended procedures for addressing colonial objects in Dutch collections, focusing particularly on items from Indonesia.[14] The report suggested that the Netherlands work with countries where the Dutch once exercised prolonged colonial authority to jointly develop a policy concerning colonial collections. The report also focused on return of cultural objects to former colonies of the Netherlands where evidence shows "the source countries suffer[ed] an involuntary loss of possession."[15]

In a swift move, the Dutch government adopted these recommendations and is beginning to put them into action, promising to return objects wrongfully taken from Dutch colonies, providing funding to develop guidance for Dutch museums, and setting up a committee to analyze requests for return.[16]

Germany

In 2019, culture ministers of the 16 German states agreed to a declaration on colonial collections that included restituting human remains, digitizing collections to provide better access to information, and conducting provenance research.[17] The German Museums Association has also updated its guidelines on art taken under inequitable circumstances in the colonial era.[18] In cases where there is no legal right to restitution, museums should consider whether the work has significant meaning to its community of origin and whether the work was "wrongfully" taken (a term the guidelines deliberately do not clarify).[19] Germany also created a fund to support colonial-era provenance research to be administered by the German Lost Art Foundation, whose primary mission thus far has been to document cultural objects that were illegally seized during the Nazi era and World War II.[20]

Building on these initial steps, in July 2022, Nigeria and Germany reached a historic agreement to transfer ownership of over 1,100 objects to Nigeria from several different state museums in Germany.[21] Some of these artifacts have already been physically returned. Transfer of other objects will be negotiated later, and Germany will retain some of the items on long-term loan. As part of the agreement, the Humboldt Forum, a new museum in Berlin, will

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14 Summary of the report Advisory Committee on the National Policy Framework for Colonial Collections (2020), https://www.raadvoorcultuur.nl/english/documenten/adviezen/2020/10/07/summary-of-report-advisory-committee-on-the-national-policy-framework-for-colonial-collections.

15 *Id.*, p. 2.

16 Catherine Hickley, "Forging ahead with historic restitution plans, Dutch museums will launch 4.5m project to develop a practical guide on colonial collections," *The Art Newspaper* (March 10, 2021), https://www.theartnewspaper.com/2021/03/10.

17 Kate Brown, "In a Landmark Resolution, German Culture Ministers Pledge to Lay the Groundwork to Return Colonial-Era Art," Artnet news (March 14, 2019), https://news.artnet.com/art-world/germany-declaration-on-restitution-1488250.

18 German Museums Association, "Guidelines for German Museums Care of Collections from Colonial Contexts," 3rd Edition 2021, https://www.museumsbund.de/publikationen/guidelines-on-dealing-with-collections-from-colonial-contexts-2/ (English translation).

19 *Id.* at 82 ("The authors do not consider it appropriate, at least not at present, to arrive at a final prescription or definition of the circumstances of acquisition which are to be considered as wrongful and could thus lead to the return of a collection item, because of the many different forms of cases and also the very different views of the countries and communities of origin.")

20 "Germany allocates $2.17 million for colonial-era provenance research," *Artforum* (Feb. 5, 2019), https://www.artforum.com/news/.

21 Gareth Harris, "'The Benin Bronzes are returning home': Germany and Nigeria sign historic restitution agreement," *The Art Newspaper* (July 4, 2022).

"... no consensus has yet developed on the standards for evaluating specific claims except those for works taken in military contexts ..."

transfer ownership of all its Benin bronzes, although some objects will remain at the Humboldt Forum on a ten-year loan before returning to Nigeria.[22]

As shown by these developments, France, the U.K., Germany, and the Netherlands are coming to believe that colonial collections warrant a fresh look and the adoption of new policies and practices, beginning with conducting provenance research and sharing this research with the countries of origin and the public. These countries are also considering legal changes to allow or even require museums to address colonial restitution issues. There seems to be a shared sense that these new rules and procedures will help former colonial powers promote justice and fairness and also build stronger and more balanced relationships with their former colonies. However, no consensus has yet developed on the standards for evaluating specific claims except those for works taken in military contexts, and it seems that European museums will continue to address each dispute on a case-by-case basis—although the agreement between Germany and Nigeria provides a path forward for larger-scale repatriations along the lines suggested by the Sarr-Savoy Report.

HOW HAVE U.S. INSTITUTIONS BEEN RESPONDING?

Until very recently, the United States lagged behind European cultural institutions in its consideration of colonial collections. The United States was not a major colonial power in the same way European countries were, so the scale of the problem is nowhere near the magnitude faced by European museums. Yet the subject is still significant and weighs heavily on numerous museum curators, administrators and board members. Bénédicte Savoy's recent (2022) book, estimates that around 50,000 objects from sub-Saharan Africa alone can be found in U.S. museums, indicating that the legacy of colonial looting in the United States warrants attention.[23] As in Europe, colonial-era collections in the United States are not necessarily illegal to possess, but they nevertheless raise powerful ethical and moral questions about the manner in which the objects were acquired. As ethical concerns become more prominent in numerous national guidelines addressing colonial collections in other countries, the technicality of whether a claim is legally viable seems likely to become less important by comparison.

Unlike European countries, the United States has few federally-owned museums, and decisions on restitution rest largely with museum administrators and directors. Museums hold their collections in trust for the public and museum board members owe a fiduciary duty to their institutions, making it difficult to deaccession objects without compelling policy-based or legal reasons.

To assist museum boards with such difficult policy questions, museum associations develop guidelines, guidance, and policies, and also recommend best practices to the museum community, similar to the direction provided by cultural officials in European countries. The United States has two principal museum organizations, the Association of Art Museum Directors (AAMD) and the American Alliance of Museums (AAM). AAMD currently has 219 member institutions, enrolled through their directors; its member museums and the remainder of the U.S. museum and collecting community generally look to AAMD for guidance on challenging issues. AAM is a more broad-based organization representing thousands of museums and similar institutions ranging from historic houses to zoos to gardens. Given its narrower focus solely on art museums, AAMD is more nimble and usually acts promptly on issues affecting art museums, with AAM often following afterwards with its own analysis and guidance.

AAMD Publishes Guidance

On November 18, 2022, AAMD released its "Guidance on Art from Colonized Areas".[24] (AAM has not yet publicly issued any official commentary

22 Philip Oltermann, "'Inconvenient truths': Berlin's Humboldt Forum faces up to its colonial past," *The Guardian* (Sept. 19, 2022).

23 Savoy, 2022, op. cit., p. 7.

24 Association of Art Museum Directors, "Guidance on Art from Colonized Areas" (Oct. 2022), https://aamd.org.

"On November 18, 2022, the Association of Art Museum Directors released its 'Guidance on Art from Colonized Areas'. … AAMD calls its announcement 'guidance' … as opposed to guidelines or a statement of policy …"

on colonial collections.) The AAMD Guidance was compiled jointly by its Task Force on Cultural Property, chaired by Bill Griswold, Director of the Cleveland Museum, and its African Art Working Group, chaired by Karol Wight, Director of the Corning Museum of Glass. The latter was formed three years ago when AAMD recognized the need for guidance as the issue of colonial collections gained prominence. AAMD's Guidance also acknowledges the leadership role played by Dr. Victoria S. Reed, Sadler Curator for Provenance at the Museum of Fine Arts, Boston, whose forthcoming publication addressing these issues no doubt supported the development of AAMD's Guidance.[25]

AAMD cautions that its advice is addressed to museums holding a wide variety of colonial objects that were acquired in myriad ways. For example, AAMD suggests that different considerations may be appropriate for official seizures during armed conflict "sanctioned" by a colonial power as opposed to "looting" that may have occurred during unsanctioned violence. Because of the many ways an object may have been transferred, AAMD calls its announcement "guidance" to museums to aid them in formulating policies appropriate to their own collections as opposed to guidelines or a statement of policy which would, presumably, provide museums with more specific requirements and which the association's member museums would be expected to follow more closely.

The AAMD Guidance nonetheless provides museums with a more comprehensive set of recommendations than some of the proposals seen so far in Europe, focusing on the 19th century but recognizing that each museum may choose to define the colonial period differently, depending on the nature and scope of its collections. The Guidance is geared toward advising member museum directors whose institutions "are considering the potential acquisition, display, interpretation, or deaccession of works of art from colonized areas."[26] In particular, AAMD advises museums to research provenance of colonial collections, be transparent with the public about its findings, and act responsibly in addressing claims.

In emphasizing the importance of provenance research and public education, AAMD's guidance underscores that transparency requires that an object be exhibited in its full and accurate context, including explaining how the object changed hands during colonial rule. To assist institutions in characterizing an object's removal from the former colony, the guidance provides a non-exhaustive list of the way in which an object may have been removed from its place of origin, including private gift or purchase, seizure in armed conflict, and outright theft.

Once a museum gathers information about an object, the institution should evaluate whether its acquisition or continued possession of that object complies with legal considerations, professional guidelines, ethical standards, and the museum's own policies. AAMD recognizes the limitations in applying legal considerations, given that customary international law surrounding the taking of objects during armed conflict was in flux during the colonial era. Since there was a period where international law was changing and at times the applicable rules may not have been clear, assessing legal claims will not necessarily provide the full picture a museum board may want to consider.

Even if an object was actually or arguably acquired legally or is presently possessed legally, the Guidance recognizes that a museum may decide it should not keep (or not acquire) the object for ethical reasons.[27] In encouraging museums to consider past and present-day ethics in making acquisition, exhibition, and deaccession determinations, AAMD's Guidance recommends transparency about the basis for making a particular decision and attention to its precedential implications. Such ethical determinations, the Guidance observes, can be consistent with the

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25 Victoria S. Reed, "American Museums and Colonial-Era Provenance: A Proposal," *International Journal of Cultural Property* (forthcoming - May 2023).

26 AAMD Guidance, p. 1.

27 AAMD Guidance, p. 7.

Smithsonian Returns 29 Benin Bronzes to the National Commission for Museums and Monuments in Nigeria

Bronzes Were Transferred in a Ceremony at the National Museum of African Art in Conjunction With the National Gallery of Art

October 11, 2022 • News Release

Ceremonial Head of a King. Photograph by Franko Khoury, National Museum of African Art, Smithsonian Institution

FIGURE 3. Smithsonian press release, October 11, 2022.

FIGURE 4. ***Altar stand.*** Benin kingdom court style. Edo artist. Nigeria. 18th–19th century. Copper alloy. 24.4 x 23.5 cm (9 ⅝″ x 9 ¼″).

FIGURE 5. ***Plaque.*** Benin kingdom court style. Edo artist, Nigeria. Mid-16th to 17th century. Copper alloy. 47 x 36.8 x 6 cm (18 ½″ x 14 ½″ x 2 ⅜″). Photos of Figures 4 and 5 by Franko Khoury. National Museum of African Art, Smithsonian Institution.

fiduciary obligations of the museum's governing board, although the scope of fiduciary duty is governed by state-specific laws which will have to be considered.

MFA Boston and Smithsonian

Even before release of the AAMD Guidance, some U.S. museums had already started addressing their colonial collections. Consistent with its forthright approach to the questionable objects, for example, MFA, Boston developed a policy on Colonial-Era Provenance and posted it on the museum's website.[28] Under that policy, the MFA conducts "research on colonial-era provenance to identify objects in the collection that may have been looted, forcibly sold, or stolen during 19th- and early 20th-century periods of conflict or colonial occupation." The objects identified are then listed on the museum's website.[29] The MFA has sought under this policy to take a pro-active approach in considering Benin bronzes. Nevertheless, the MFA defended its possession of objects on loan to the museum in response to a 2012 claim for their return by the Nigerian government. "We would like to restore the rightful ownership of them in some way," curator Reed told the *Boston Globe*. "They're really not acceptable under our collections policy."[30]

The Smithsonian Institution also recently adopted an ethical returns policy which authorizes restitution where an object or collection was acquired unethically; for example, if an object was stolen, taken under duress, or removed without the owner's consent.[31] On October 11, 2022, several months after adopting this policy, the Smithsonian's National Museum of African Art transferred ownership of 29 Benin bronzes to the National Commission for Museums and Monuments in Nigeria. **(FIGS. 3–5)**[32] At the same time, the U.S. National Gallery of Art also returned a Benin bronze. These returns reflect the singular prominence of the Benin bronzes as candidates for restitution and indicate that the focus on repatriation of works taken in a military raid will continue to be the highest priority for return. After the Smithsonian announced its return of Benin bronzes, a private organization called the Restitution Study Group sued the Smithsonian to prevent the return, arguing that descendants of enslaved individuals in the U.S. have as much a right to these objects as Nigeria. The lawsuit reflects some of the complex historical and current-day policy issues at play in making a decision whether to return an object.

DEVELOPING STANDARDS FOR RESTITUTION OF COLONIAL COLLECTIONS

The recent AAMD Guidance on colonial collections draws on existing frameworks for Holocaust-era and Native American claims by emphasizing the importance of provenance research, transparency, responsible decision-making, and attention to the burden of proof, the passage of time, or other legal barriers to claims.

Conducting provenance research and publicizing the results is a foundational element of any restitution law or policy, and so it is present in the European guidelines on colonial collections as well as in the AAMD Guidance. In prioritizing the providing of information to possible claimants, the AAMD Guidance also draws on NAGPRA, the U.S. Native American Graves Protection and Repatriation Act, passed in 1990 to address historical looting and other inequitable dispossessions from Native American tribes.[33]

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28 MFA Boston: Colonial-Era Provenance, https://www.mfa.org/collections/provenance/colonial-era-provenance.

29 *Id.*

30 Malcolm Gay, "MFA's Victoria Reed is a leading voice in debate over looted artworks—and what to do with tthem," *Boston Globe* (October 14, 2022), https://www.bostonglobe.com/2022/10/14/arts/mfas-private-eye-provenance/.

31 News release, "Smithsonian Adopts Policy on Ethical Returns" (May 3, 2022), https://www.si.edu/newsdesk/releases/smithsonian-adopts-policy-ethical-returns.

32 News release, "Smithsonian Returns 29 Benin Bronzes to the National Commission for Museums and Monuments in Nigeria" (Oct. 11, 2022), https://www.si.edu/newsdesk/releases/smithsonian-returns-29-benin-bronzes-national-commission-museums-and-monuments.

33 25 U.S.C. §§ 3001–3013. With respect to NAGPRA, however, provenance research into an object's history must be distinguished from scientific research, such as DNA testing or other invasive research, on ancestral remains and sacred objects, which members of tribes typically object to strenuously as being highly disrespectful.

In another parallel to NAGPRA, the recent Guidance recommends that museums look to indigenous and other relevant communities for assistance in determining if an object is appropriate to display, needs special care or handling, or should not be photographed or displayed online.

The centrality of provenance research and access to information held by museums is also visible in the AAMD and AAM procedures for addressing art looted during World War II and the Holocaust. Publicizing this provenance research has helped claimants come forward.[34] With regard to colonial restitution, securing funding for provenance research remains a priority for American museums, as many of these collections presently lack sufficient documentation to support decision-making, and the MFA Boston is rare in having a dedicated full-time provenance researcher.

Many of the artifacts covered by NAGPRA were looted or acquired in military contexts, scientific or pseudo-scientific expeditions, or unethical transactions, similar to those that occurred in sub-Saharan Africa in the late 19th and early 20th centuries. An important motivation behind NAGPRA, the framework suggested by Sarr and Savoy, and the AAMD Guidance, stems from a desire to right historical wrongs, heal old wounds, and create stronger ties going forward.

Another consideration in any restitution law or policy is identifying who has the burden of proof. In the United States, that burden is typically carried by the claimant, but a restitution policy could change this burden in a variety of ways. Sarr and Savoy, for example, recommend the restitution of objects acquired in military contexts, presuming that there was an absence of consent in those circumstances. Shifting the burden of proof to the current possessor more broadly is unlikely to gain acceptance in the United States, although it may be justified for claims to works removed through violence during the colonial era.

Rapidly developing policies in Europe in the aftermath of the Sarr-Savoy Report have opened the door to restitution or other remedies that U.S. and European institutions have thus far hesitated to walk through, although small steps are being taken. We have, on the other hand, yet to see private collectors publicly stepping forward to return colonial objects. The art market is undoubtedly watching these developments closely and one can expect increasing attention to be paid to objects likely looted during a period of colonialism. Given the vast numbers of objects — in Europe and the United States — that could be encompassed by Sarr and Savoy's reasoning, the work lies ahead for those institutions who will be tasked with researching and addressing claims for objects removed under colonial rule. In the U.S., museums and other collecting institutions and individuals will be analyzing the recently-issued guidance from AAMD. Along with the Smithsonian's recent adoption of an ethical returns policy and the MFA, Boston's transparency, the AAMD Guidance, which also foregrounds ethical considerations, will be key to setting the standards for how claims for objects removed in the colonial era will be handled in the United States.

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34 See, e.g., American Alliance of Museums, Recommended Procedures for Providing Information to the Public about Objects Transferred in Europe During the Nazi Era, at 1 (noting that the AAM, AAMD, and the Presidential Advisory Commission on Holocaust Assets in the United States agreed "on the desirability of expanded online access to museum collection information that could aid in the discovery of objects unlawfully appropriated during the Nazi era"), https://www.aam-us.org/wp-content/uploads/2018/01/nepip-recommended-procedures.pdf.

THE SCOURGE OF RUSSIAN AVANT-GARDE FAKES

KONSTANTIN AKINSHA*

In September 2020, despite the raging pandemic, the Ludwig Museum in Cologne opened (virtually) the exhibition "Russian Avant-Garde at the Museum Ludwig: Original and Fake. Questions, Research, Explanations" **(FIG. 1).**[1] The show, and a related symposium from November 5–7, 2020, was the outcome of a meticulous examination of the Russian avant-garde collection of one hundred paintings amassed by Peter and Irene Ludwig, one of the largest collections of Russian art in Western Europe. At that point, conservators and technical experts — including Petra Mandt, Maria Kokkori, and Jilleen Nadolny[2] — had studied forty-nine of the paintings, using a variety of analytical techniques. Twenty-two proved to be forgeries. The Ludwig Museum's decision to make the results of the research public in its own galleries went against traditional museum practice. Curators of important European museums usually prefer to keep silent about the skeletons in their closets, to protect morale and to avoid possible legal problems, among other reasons.

"The Ludwig Museum's decision to make the results of the research public in its own galleries went against traditional museum practice."

FIGURE 1. Cover of exhibition catalogue.

The Cologne show was based in part on the desire to break through that silence. Scandals connected to Russian avant-garde fakes aren't new to the art market. Galleries have come and gone that showed nothing but fakes. But in the last decade, something more insidious has been happening: the scandals have often involved museums. The organizers of the Cologne exhibition decided that bringing the problem into the open was long past due.

The most prestigious museums have been affected. In 2015 the Albertina Museum in Vienna discovered that the Russian section of The Batliner Collection of modern art, donated to the institution in 2007, contained numerous fakes. Some of the collection's highlights — works attributed to Liubov Popova (1889–1924), Aleksandra Exter (1882–1949), Aleksandr Rodchenko (1891–1956), and Ivan Puni (1892–1956) — were among the works found to be forgeries. The compromised canvases disappeared from view, silently.

The Ludwig Museum's decision to publicize its own fakes attracted attention long before the exhibition opened to the public. Galerie Gmurzynska in Switzerland, one of the leading suppliers to the Peter Ludwig collection, sued the museum, demanding to be provided with all research materials connected to the questionable works before the opening of the

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1 The exhibition ran from Sept 20, 2020 to January 3, 2021.

2 Petra Mandt is Deputy Head of Conservation at the Ludwig Museum, Cologne; Maria Kokkori is the Associate Scientist for Scholarly Initiatives at the Art Institute of Chicago; Jilleen Nadolny is the Director, UK of ArtDiscovery in London.

Editor's Note: To *IFAR Journal* Readers

The attached article by Konstantin Akinsha on "The Scourge of Russian Avant-Garde Fakes" was intended for a previous issue of the *IFAR Journal*. Concerned that, in light of the Russian invasion of Ukraine, the title might be misunderstood and the timing considered insensitive, we postponed publication, although this is not a political article and IFAR's dismay about the loss of life and damage to Ukraine's cultural heritage was made clear a year ago (and has not changed). We posted a statement to that effect on our website and organized an *IFAR Evening* panel on the subject, on which Dr. Akinsha, a Ukrainian born American art historian, participated. We decided to go forward with the publication now because the article is time sensitive, as it relates to a 2020 exhibition and symposium and to recent legal cases involving Russian Avant-Garde fakes. We trust you will agree that we have made the right decision.

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show. The museum refused. The gallery won the case in the regional court in Cologne (Landesgericht), but the museum appealed, and the higher regional court (Oberlandesgericht) overturned the decision on September 16, 2020. The gallery succeeded only in generating interest in the upcoming show, as reports of the legal battles appeared in leading German newspapers on the eve of the opening. The show went on to attract international attention and was reviewed in the U.S., Russia, the UK, and other countries, as well as in Germany.

Peter Ludwig was hardly the only buyer of fake Russian paintings. From its earliest days, the market for Russian avant-garde art has been tainted. During the 1960s through the 1980s, most Russian artworks appearing on the western art market had been illegally smuggled from the USSR. Their original owners couldn't be disclosed because of the danger of official retribution. This was convenient for criminals, since they couldn't be expected to reveal their sources. Thus, the absence of verifiable or even rational provenances was blamed on the shadow of the all-powerful KGB. At the same time, access to Soviet archives and museum collections was minimal. In this situation, serious comparative research of works offered for sale in London, Cologne, or New York was almost impossible.

A few Soviet émigré experts asserted themselves and became prominent, many of them serving the international market in the double capacity of suppliers and gurus claiming access to "hidden knowledge." Since they often benefited from the high demand for avant-garde artworks coupled with unavoidable ignorance, many of these experts preferred to close their eyes to questionable works.

The late Ingrid Hutton, the prominent New York art dealer who pioneered the Russian avant-garde market in the United States, complained in 1981, "Lack of first-hand exposure to work breeds lack of feeling for the artist's use of line, form, proportion, and color. Because of this, questionable works are being bought by unsuspecting dealers and collectors."[3]

[3] Ingrid Hutton, "The Leonard Hutton Galleries' Involvement with Russian Avant-Garde Art," *Art Journal*, Vol. 41, Issue 3, August 1981, p. 211.

Gorbachev's *perestroika* and the subsequent fall of the Soviet Union in 1991 liberated the oeuvres of the Russian avant-garde from the art Gulag of museum secret depositories. The art of Revolutionary Russia, hidden for decades, was in vogue again, both in Moscow and in the West. Exhibitions of the leading artists — Kazimir Malevich (1988–1989 State Russian Museum, St. Petersburg; Tretyakov Gallery, Moscow; Stedelijk Museum, Amsterdam); Liubov Popova (1990 Tretyakov Gallery; 1991 MoMA); and Aleksandr Rodchenko (1998 MoMA) — manifested the rediscovery of the great Russian art experiment after the end of the Cold War. The blockbuster show "The Great Utopia: The Russian and Soviet Avant-Garde, 1915–1932," organized in 1992 by the Guggenheim Museum in New York and shown a year later at the Tretyakov Gallery, was the culmination of the interest in the once prohibited art of Russia.

"The absence of verifiable or even rational provenances was blamed on the shadow of the all-powerful KGB."

Ironically, it was the dystopian end of Soviet communism that made it possible to exhibit the "great utopia" of Russian art experiments in New York. But the optimism of the early 1990s was short-lived, replaced by the bitterness provoked by the political and economic demise of post-communist Russia. If avant-garde art was victimized by political prohibitions during the days of the USSR, in post-Soviet Russia it was destined to suffer as a result of the total corruption that was often excused by economic misery.

PHONY CERTIFICATES

The popularity of Russian art in the West spurred not only the mass production of fakes but also the manufacture of phony authentication certificates to accompany them. The tragedy was that this false expertise was provided not just by individuals but by respected institutions, as the country's leading museums were swept up in the post-Soviet passion to participate in the market economy. By the beginning of the 1990s, the Tretyakov Gallery, the State Russian Museum, and the State Hermitage Museum, among others, had created so-called "departments of expertise" that were issuing certificates of authenticity on a commercial basis. Soon, research institutes of conservation joined

"The popularity of Russian art in the West spurred not only the mass production of fakes but also the manufacture of phony authentication certificates to accompany them. … The Tretyakov Gallery alone issued hundreds of certificates, which are still circulating on the international art market."

this production line of questionable art authentications. There was absolutely no understanding of the concept of conflict of interest. Bribes paid for "positive certificates" transformed the museums into laundries for fakes. The Tretyakov Gallery alone issued hundreds of certificates, which are still circulating on the international art market.

This situation provoked so many scandals that finally, in 2006, the Ministry of Culture of the Russian Federation prohibited state museums from issuing commercial certificates of authenticity. In 2007 the Federal Service for Monitoring Compliance with Cultural Heritage Protection Law started to publish catalogues of fake paintings, many of which had been certified by museums. In 2008 the Tretyakov Gallery conducted an internal investigation and reluctantly recognized that its expertise department had certified ninety-six fake paintings reproduced in the ministry's catalogues.[4] In 2016 the department was disbanded by Zelfira Tregulova, the museum's new director.

None of the compromised experts suffered consequences, nor was there a serious investigation into the activities of the expertise departments. The most notorious "connoisseurs" who retired or were forced to resign of their "own volition" soon found new opportunities to exploit their skills. Everyone agreed that "mistakes" had occurred, but no one took responsibility for the colossal damage to Russian art.

FAKED PROVENANCES

During the heyday of the certificates industry, another development took place in the shady market for questionable avant-garde art. Times had changed, and stories about owners of masterpieces who feared state repression weren't convincing anymore. New origin myths had to be provided for the many "newly discovered" works of Kandinsky, Malevich, and Popova that were popping up in the market. This urgent need gave birth to a new genre of fantastic literature: the fake provenance. Creating these documents could be very complicated, involving both skillful tricks and unrestrained fantasy.

Andrei Vasiliev, a well-known researcher of the Russian avant-garde art market, described a favorite scheme used during the late 1980s and the 1990s in St. Petersburg.[5] Shady dealers would target old ladies who had mirrors or framed photographs hanging on their walls. These lucky grannies were invited to make some money by playing a role in a scam, an essential element of which was the unfaded rectangle of wallpaper that lay behind the mirror or the photograph. Faked Maleviches or Filonovs were manufactured that fit the unfaded area perfectly and took their place on the wall. The crooks would invite foreign buyers to a poor dwelling where an old *babushka,* a pathetic figure above suspicion, would tell them a touching tale about the painting that had been bought by her late husband in the 1930s, which she had treasured and saved through stormy years but now had to sell.

Another origin myth involved the authorities. Throughout the 1990s and the early 2000s, tremendous numbers of unknown canvases appeared that allegedly had been confiscated by the KGB or hidden in the private collections of Soviet officials (it seems that even members of Stalin's inner circle weren't immune to the charms of modernist painting) or deaccessioned by provincial museums and other state institutions (although the policy of museum deaccessioning never existed in the Soviet Union).

In a strange way, some of these fairy tales reflected the complicated history of Soviet collections of avant-garde art. Revolutionary Russia was the first country in the world to establish a museum of modernism.

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4 Anonymous, "Eksperty Tretiakovki proveli okolo sta oshibochnykh ekspertiz," (Experts of Tretyakov Gallery provided around one hundred misleading authentication certificates.) *LentaRU,* March 28, 2008: https://lenta.ru/news/2008/03/28/fake/ Vladimir Roshchin (Ed.) Svodnyi catalog poddelok proizvedenii zhivoipisi. (Moscow: Reestr kul'turnykh tsennostei, 2016.)

5 Andrei Vasiliev, Rabota nad fal'shivkami, ili podlinnaia istoriia damy s teatral'noi sumochkoi. (Work on mistakes or the true story of the dame with an evening bag) (Moscow: ID Gorodets, 2021), pp. 64-65.

The so-called Museum of Painterly Culture was opened in Moscow in 1919 (ten years earlier than the Museum of Modern Art in New York). At almost the same time, the Museum of Artistic Culture was established in Petrograd. The museums, managed by such avant-garde artists as Wassily Kandinsky, Kazimir Malevich, and Aleksandr Rodchenko (to name just a few), became centers of modernist activity. The plan was to create a network of museums in provincial towns, and some paintings were selected and sent off. During the short post-revolutionary period, when the avant-garde became the official art of the new state, the Peoples Commissariat of Enlightenment purchased thousands of works. After the cultural policy change at the end of the 1920s and the beginning of the 1930s, the museums were closed, and the artworks were redistributed among other museums in both Russia and the other republics of the Soviet Union. Scattered from Kyiv to Tashkent, these works were destined to collect dust in secret repositories until the fall of the USSR.

Legends about the avant-garde treasures found in provincial museums in the former Soviet republics of Central Asia became a persistent trope of the new provenance mythology. These tales about canvases by El Lissitzky and Mikhail Larionov purchased from museums in Uzbekistan, Tajikistan, and the other former Soviet "stans" spread because no serious research had been done into the redistribution of avant-garde works.

The willingness to accept these exotic provenances (sometimes supported by faked inventories of Central Asian collections), combined with certificates provided by the significant museum institutions of the country in question, duped some curators of provincial Russian museums. They quickly became involved in what they saw as the popularization of newly discovered masterpieces. In reality, it was the whitewashing of questionable artworks.

In the early 2000s, a certain Edik Natanov, an Israeli businessman and the owner of E. Natanov Diamonds Ltd., first appeared in Russia. Fond not only of jewels but also of the Russian avant-garde, Natanov claimed to have inherited part of his collection from his grandfather, a Russian literature teacher from Soviet Uzbekistan who, incredibly, had also owned a jewelry business. Natanov claimed that his grandfather "was forced to conceal the collection either in the damp basement of an Uzbek hut somewhere in the narrow streets of Samarkand or in stuffy barns."[6] After the USSR collapsed, this account continued, the paintings were taken to Israel, where Natanov inherited them in 1995. Despite the strange history of the collection (and comments by the owner himself, who, when asked how many paintings were in his collection, answered laconically, "A lot"), masterpieces from the "Uzbek Barn" were shown in several Russian museums, in Yaroslavl, Nizhny Novgorod, and Perm in 2005.

Natanov's budding career came to an end when, in 2011, Italian police confiscated the painting "K 19," dated 1919 and attributed to Kandinsky, which had been exhibited in Perm during the Diaghilev Festival. The same painting had been put up for sale in Milan for a few million euros. In 2013, a Milan court pronounced the work a fake.[7]

All the paintings from the Natanov collection that were proudly exhibited in provincial Russian museums were certified by the experts of the Tretyakov Gallery and such prominent Russian art historians as Velryi Turchin, Gleb Pospelov, and Anatoliy Strigalev.

THE SNZ AFFAIR

Natanov collaborated closely with another Israeli, Itzhak Zarug, and with a Tunisian-German citizen, Moez Ben Hazaz. Together they founded a gallery called SNZ in Wiesbaden, Germany. According to German press reports, the gallery sold hundreds of questionable Russian avant-garde artworks for millions of dollars. In 2013 the German criminal police (BKA), tipped off by Israeli law enforcement, arrested Zarug and Ben Hazaz and raided the gallery and storage. In a room rented from a furniture dealership in Wiesbaden, police discovered more than a thousand paintings attributed to Russian avant-garde artists. Although they were purportedly worth millions, the

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6 Anonymous, "V Nizhnem vstretelis' dve odinakovye kartiny Malevicha," (Two similar paintings of Malevich have met In Nizhny Novgorod." *Komsomol'skaia Pravda*, July 5, 2005: https://www.nnov.kp.ru/daily/23538/229780/.

7 Sven Röbel and Andreas Wassermann, "Russian Avant-Garde Art: Police Break Up Suspected Forgery Ring," ABC News, August 2, 2013: https://abcnews.go.com/International/russian-avant-garde-art-police-break-suspected-forgery/story?id=19846547.

"Natanov collaborated closely with another Israeli, Itzhak Zarug, and with a Tunisian-German citizen, Moez Ben Hazaz. Together they founded a gallery called SNZ in Wiesbaden, Germany .... In 2013 the German criminal police (BKA) ... arrested Zarug and Ben Hazaz and raided the gallery and storage .... [They] discovered more than a thousand paintings attributed to Russian avant-garde artists."

works were stored without climate control, proper security, or even insurance.

This was the most extensive police operation against the sale of fakes in European history, but it ended disappointingly. The exhausting legal procedures following the investigation lasted three and a half years. The police didn't have the resources to test all the confiscated paintings. Ultimately, the charges included only 19 canvases, of which the prosecutor succeeded in proving that three works attributed to Aleksandr Rodchenko and El Lissitzky were fakes.

The trial itself turned into a Kafkaesque affair. The prosecution invited Andrei Nakov, a French art historian of Bulgarian descent, to serve as its expert, while the defense chose Patricia Railing, Nakov's former wife (1971–78) and archenemy, an American living in the UK, and a close collaborator with the SNZ gallery. The trial became a battle between the former spouses and was referred to by journalists as their "second divorce proceedings."

The verdict was something of an anticlimax. Izhak Zarug was sentenced to 32 months in prison and Moez Ben Hazaz to three years. They were set free after the trial, however, because they had served out their terms in pre-trial detention.[8] Zarug and Hazaz were also obliged to pay one million euros to compensate victims who had purchased the three paintings that were proved to be fakes. All other works not proved to be forgeries were returned to the accused on condition that they could be sold only if potential buyers were notified that the works had been confiscated by the police and were of questionable authenticity.

A few minutes before the German press agency published the first report about the verdict, a British PR company retained by Zarug and Hazaz issued a misleading press release: it stated that the court had ruled that all the paintings returned to them were authentic. The press release omitted mentioning the prison terms and the one million euro fine. The *Times* and the *Daily Telegraph* ran reports based on this false information. (The *Times* later published a correction; the *Telegraph* never admitted that its reporter had been misled.)

The Wiesbaden trial proved that the court system is not suited to deal with art-fraud cases. When direct proof of the production of fakes is absent, court hearings tend to turn into duels between experts. Another problem manifested during the investigation was the inability of German police to conduct intensive technical analyses of the questionable canvases — the absence of in-house expertise and the prohibitive cost of using commercial laboratories made such an undertaking impossible. In the end, both the criminal investigation and the trial turned into a disappointing replay of the Aesopian fable about the mountain that gave birth to a mouse. Proof that the German police correctly assessed the Wiesbaden art dealers' activities appeared in the 2020 Ludwig Museum exhibition. The show included a "Still Life with Glass and Bottle" attributed to Liubov Popova **(FIG. 2),** a "Proun," allegedly by El Lissitzky

FIGURE 2. Previously attributed to Liubov Popova, ***Still-life with Glass and Bottles,*** dated 1914. Oil, collage on canvas. 76 × 61 cm. Ludwig Museum, Cologne. Ph. courtesy Ludwig Museum.

[8] The March 15, 2018 court decision of 32 months (for Zarug) and 3 years (for Hazaz) was reduced in a later decision of November 3, 2020.

FIGURE 3. (Left) Previously attributed to El Lissitzky, ***Proun,*** dated 1923. Oil on paper. 61 x 39.6 cm. Ludwig Museum, Cologne. Ph. courtesy Ludwig Museum.

FIGURE 4. (Right) Previously attributed to Aleksandr Vesnin, ***Untitled (Stage Set for Phaedre),*** dated 1922. Oil on canvas. 54 x 74.5 cm. Ludwig Museum, Cologne. Ph. courtesy Ludwig Museum.

(FIG. 3), and a stage set for *Phaedre* attributed to Aleksandr Vesnin **(FIG. 4).** All three works turned out to be forgeries. All three had been sold to Peter Ludwig by Itzhak Zarug through the Benoit Sapiro gallery in Paris in 1993.

MANTUA

Despite the scandals and controversies, questionable works attributed to Russian avant-garde artists keep showing up in Western museums. Some European museums have even hosted exhibitions composed entirely of fakes. In 2013, soon after the proceedings in the Wiesbaden court started, the Casa del Mantegna in Mantua hosted a show called "Russian Avant-Garde: From Cubo-Futurism to Suprematism" ("Avanguardie Russe dal cubofuturismo al suprematismo").[9] With paintings attributed to Ivan Kliun, Lazar Khidekel, Natan Altman, and others, it provoked an outcry from experts.

The exhibited works looked like laborious pastiches. In a painting entitled *Cubofuturism* attributed to Altman **(FIG. 5),** actually an inept remake of *PetroKommuna* (1921) in the State Russian Museum **(FIG. 6),** the word "Kommuna" (commune) is spelled with one "m," a mistake even an illiterate Russian forger wouldn't make. The error points to an Italian, since the word is written with one "m" in that language.

In an article dedicated to this peculiar exhibition published in *The Art Newspaper* in March 2014, London dealer James Butterwick, a vocal advocate of purification of the Russian avant-garde art market, correctly but bluntly wrote that most pictures in the exhibition "could be fakes." The organizers of the Mantua exhibition sued him but lost the case in 2020.[10]

The exhibition of sloppy pastiches appearing in the house of a great Renaissance artist wasn't the only such case. The Czech auction house Zezula sold 63 works on paper and propaganda porcelain to the

FIGURE 5. Attributed to Natan Altman, ***Cubofuturism,*** dated 1920s. Oil on canvas. 68 x 49 cm. Private collection, Italy.

FIGURE 6. Natan Altman, *Petrokommuna* (Authentic), 1921. Oil and enamel on canvas. 104 x 88.5 cm. State Russian Museum, St. Petersburg. Ph. courtesy State Russian Museum.

[9] The Mantua exhibition ran from November 2013 to February 2014.

[10] The Tribunale di Milano cleared Butterwick on January 29, 2020.

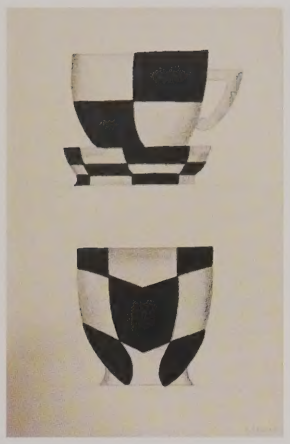

FIGURE 7. Attributed to Lazar Khidekel, ***Design for a Cup,*** undated. Indian Ink and pencil on paper. Galerie Benedikta Rejta. Czech Republic. Ph. courtesy Galerie Benedikta Rejta. The Lazar Khidekel Foundation has stated that this work is a fake.

Benedikt Rejt Gallery in Louny in 2014–2017, which undoubtedly came from the same source as the suspicious items exhibited in Mantua. The museum is now conducting an investigation of "unlucky purchases." It is not too difficult to predict the results of the examination **(FIG. 7).**

GHENT

If the scandal in Mantua could be dismissed as a provincial sideshow, the events in the Ghent Museum of Fine Arts (Museum voor Schone Kunsten – MSK) in 2017–18 proved that the most reputable European museums are not immune from the invasion of Russian avant-garde fakery.

On October 20, 2017, the museum began exhibiting 24 paintings and objects purportedly by such masters as Wassily Kandinsky, Kazimir Malevich, Mikhail Larionov, and Pavel Filonov.[11] All the works were on loan from the Dieleghem Foundation in Brussels, which was established by Igor Toporovsky and his wife, Olga, after they emigrated from Russia to Belgium in 2006. Toporovsky claimed to have been Mikhail Gorbachev's "youngest advisor" and to have served as a "secret diplomat" sent by the Yeltsin government on delicate missions to NATO headquarters. Olga Toporovsky, née Pevsner, allegedly was related to the famous avant-garde artists Antoine Pevsner and Naum Gabo. (All these claims later proved to be false.)

Toporovsky said that he planned to open a museum in the municipality of Jette, in the Brussels-Capital Region. In a conversation with Michel Polfer, the director of the Musée national d'histoire et d'art Luxembourg, he claimed that he had received special permission from President Vladimir Putin to import his collection to the West. (Dmitry Peskov, Putin's press secretary, later stated that Putin had never heard of Toporovsky and was not responsible for providing export licenses for artworks.)

The Ghent exhibition attracted instant international attention, thanks to social media. Pavel Otdelnov, a Russian artist who visited the museum soon after it opened, was one of the first who posted images of the peculiar paintings on Facebook and expressed concern about their stunningly low quality. The online discussion he ignited attracted the attention of experts. Some of them tried to contact museum director Catherine de Zegher, but their requests were ignored.

"... [T]he events in the Ghent Museum of Fine Arts ... in 2017–18 proved that the most reputable European museums are not immune from the invasion of Russian avant-garde fakery."

Finally, a group of ten art historians and art dealers specializing in the Russian avant-garde published an open letter in Belgian newspapers (and reprinted in *The Art Newspaper* on January 15, 2018) stating that the works exhibited in the museum were highly suspicious. In addition to the author of this article, the signatories included Vivian Barnett, an authority on Wassily Kandinsky; Aleksandra Shatskikh, an expert on Kazimir Malevich; the art dealers James Butterwick and Ingrid Hutton; and Julian Barran, formerly a director of Sotheby's Impressionist and Modern Art department in London and head of Sotheby's France.

De Zegher, a former director of the Drawing Center in New York and the curator of numerous important exhibitions of contemporary art, rejected outright the experts' opinions. According to her, the presentation of paintings from the Toporovsky collection was the first step in her attempt "to rewrite the history of the Russian avant-garde." De Zegher planned to exhibit more works from the Dieleghem

11 The exhibition "From Bosch to Tuymans: A Vital Story" was scheduled to run through February 28, 2018.

Foundation collection in 2018, adding loans from other European museums.

In January an article by Simon Hewitt in *The Art Newspaper* proved that the provenances provided by Toporovsky were misleading, if not outright faked. Toporovsky had claimed that some of the works exhibited in Ghent had originally belonged to Joseph Orbeli, the legendary director of the Hermitage Museum from 1934 to 1951. Orbeli's family categorically rejected this assertion. Toporovsky's claims that some of his canvases had come from Antoine Pevsner and George Costakis, a noted collector of 20th century Russian art who died in 1970, were also rejected. But the most outrageous evidence of provenance supplied by the collector was a copy of two pages of a catalogue for an exhibition held in the Museum of Fine Arts in Kharkiv, Ukraine, which allegedly included a painting attributed to Olga Rozanova that was included in the Ghent exhibition. The officials of the Kharkiv Museum provided the original catalogue in question. It proved that Toporovsky had Photoshopped an image of the Rozanova painting into the copy. Moreover, the name of the canvas had been incorrectly translated into Ukrainian. The title of the composition, "Queen of Hearts," was transformed into "Queen of Worms."

Hewitt's investigation was the last straw. The show in Ghent was closed, but de Zegher continued to defend the collection. Declaring herself the "Joan of Arc of the Russian avant-garde," she refused to allow a special commission appointed by the Ministry of Culture of Flanders to enter the museum. In the end, she was dismissed.

A criminal investigation soon revealed that before emigrating to Belgium, Toporovsky had swindled a few wealthy Russians into paying millions for forgeries. He and his wife were arrested by Belgian police and held in pre-trial detention while the Belgian prosecutor's office cooperated closely with Russian police, who found indisputable proof of Toporovsky's criminal activities. According to leaks published in the Russian press, the police not only confiscated a fake architecton attributed to Kazimir Malevich, which was in transit to Brussels, but also uncovered the whole supply and production chain organized by Toporovsky. Russian investigators said he had sold about forty million dollars worth of forgeries. He paid his suppliers at best ten thousand dollars for a faked canvas.[12]

A foreign national who graduated from the Art Academy in St. Petersburg and lives in Russia was among the makers of "Maleviches" and "Kandinskys." He allegedly was duped into producing fakes by the assurances of intermediaries that the paintings "in the style of the Russian avant-garde" were needed to decorate hotels. Later, he guessed that his paintings had quite a different purpose. First, the client refused his offer to varnish the finished works (it seems that Toporovsky added signatures after the fakes arrived in Belgium). When the artist was ordered to paint pastiches on old canvases, he understood that he had been hired to produce fakes.

The continuing investigation into the Toporovskys' activities is not limited to the production and sale of forgeries. It needs to address corruption, money laundering, and other crimes possibly committed by the couple and their Belgian collaborators. It remains to be seen if the Belgian court is more successful than the court in Wiesbaden in proving that the works exhibited in Ghent were fakes. The investigation of the case is still in progress.

TELLTALE SIGNS

The events of the last years demonstrate that it is difficult to fight against fakers in courts. On the other hand, the quality of the majority of forged paintings that appeared on the market in the last decades is extremely low. The fakers of the Russian avant-garde didn't rise to the standard of Han van Meegeren. Often their pastiches look like cartoons of originals full of peculiar mistakes. Such errors could be connected with the pre-revolutionary Russian orthography, collage elements cut out from old newspapers and magazines, and even with the very objects depicted by the feckless falsifiers.

The bizarre pastiches regularly appear on the pages of art books and catalogues, used to launder "newly discovered masterpieces." The first volume of the catalogue raisonné of Natalia Goncharova, compiled

[12] Ivan Petrov, "Namalevat' Malevicha: aferu v Bel'gii raskryli rossiskie syshchiki," (To paint a Malevich: Russian investigators exposed a fraud in Belgium) Izvestiia, February 13, 2020: https://iz.ru/974879/ivan-petrov/namalevat-malevicha-aferu-v-belgii-raskryli-rossiiskie-syshchiki.

FIGURE 8. Natalia Goncharova, *Biker (Cyclist)*, 1912–13 (Bazetoux, no. 770, *Le cyclist*). Oil on canvas. 79 x 105 cm. Private Collection.

by Denise Bazetoux *(Natalia Gontcharova: son oeuvre. Entre tradition et modernité. Catalogue raisonné,* Vol. 1. Paris: Arteprint, 2011) and a subsequent tome by British art historian Anthony Parton *(Goncharova: The Art and Design of Natalia Goncharova.* Woodbridge: Antique Collectors' Club, 2010), included a series of previously unknown works designed to demonstrate the influence of Italian Futurism on the young artist. Inspired by the painting *Biker (Cyclist)* **(FIG. 8)** from the State Russian Museum, our intrepid authors decided to re-write the History of Transport, enriching the artist's repertoire of vehicles to include racing cars and adult scooters.

Three canvases, included in the Bazetoux catalogue, depict a dashing motorist in a leather helmet, driving a car that vaguely resembles the Russo-Balt, a car produced in Riga from 1908 **(FIGS. 9–11).**

The vague similarity of these cars to the original Goncharova painting of a cyclist is deceptive. For example, although traffic in the Russian Empire and USSR drove on the left-hand side of the road, all cars, as in other European countries until the 1920's, used right-hand drive. The first Soviet car with a steering wheel on the left was the Ya-3 truck produced by the Yaroslavl Automobile Plant in 1925. Why, therefore, do the cars attributed by Bazetoux and Parton to Goncharova have a steering wheel located on the left, a concept that simply could not have existed in pre-Revolutionary Russia?

FIGURES 9–11. Paintings attributed to Natalia Goncharova, reproduced in the catalogue raisonné by Denise Bazetoux (Bazetoux nos. 765, 766, 767). All are oil on canvas and dated 1912–1913. **FIG. 10** is monogrammed bottom left in Cyrillic. **FIGS. 9** and **11** are monogrammed bottom right. Private Collections.

FIG. 9.

FIG. 10.

FIG. 11.

FIGURE 12. Attributed to Natalia Goncharova. ***Man on a Scooter***, c. 1913-1914 (Bazetoux no. 772, *La trotinette*). Private Collection.

Even more absurd is the picture depicting a fellow in a cap trundling down a Moscow street on a scooter **(FIG. 12).** While Goncharova has been described as prophetic, even she would have been pushed to foresee the invention of the first adult scooter (previously a child's toy), designed in the USSR in 1973 by engineer Sergei Lundovsky.

The problem of transcription is a mere bagatelle when we step into the world of Old Russian orthography. The temptation to use old Russian spellings in the inscriptions on the fake paintings is too strong. The possibility to add to a forgery a touch of "temps perdu" increasing the aura of the assumed-authenticity is difficult to resist. However, the fakers constantly demonstrate a striking inability to follow the antiquated canons of the Russian language. Among paintings recently downgraded as forgeries in the Ludwig Museum's collection is a composition formerly attributed to Ivan Puni called *Thonet No. 14 (Composition with letters)* **(FIG. 13).** The painting is a depiction of the Futurist dissection of a chair, which does, in fact, look like the model No. 14, launched by Thonet in 1859. However, the unknown artist who painted it scores minus marks for spelling the name of this manufacturer of Viennese chairs without the Russian letter "b" at the end, something which Ivan Puni could not have done.

FIGURE 13. Previously attributed to Ivan Puni, ***Composition with letters (Thonet No. 14)***, 1919. Oil on canvas. 65 x 43 cm. Ludwig Museum, Cologne. Ph. courtesy Ludwig Museum.

" [T]he fakers constantly demonstrate a striking inability to follow the antiquated canons of the Russian language."

The danger of including collage elements is also evidenced by the story of the painting, *Cafe,* attributed to Liubov Popova, which was exhibited at the Toporovsky exhibition in Ghent **(FIG. 14).** The Austrian journalist, Herwig Heller, an expert on Russian periodicals of the First World War, noticed that an article from the magazine *Niva,* printed in 1916, was pasted onto the painting, ostensibly dated 1914.

FIGURE 14. Attributed to Liubov Popova, ***Café,*** 1914. Oil on canvas. 120.5 x 88 cm. Collection Igor Toporovsky. Ph. courtesy K. Akinsha.

FIGURE 15. Vladimir Tatlin, *Model,* 1913. Oil on canvas. State Tretyakov Gallery, Moscow. Ph. courtesy State Tretyakov Gallery.

FIGURE 16. Attributed to Vladimir Tatlin, ***Model,*** 1913. Oil on canvas. Collection of Edik Natanov. Ph. courtesy K. Akinsha.

Fakers often make pastiches — variants of well-known paintings — rather than "original" fakes. A Vladimir Tatlin canvas depicting a seated nude, now in the collection of the State Tretyakov Gallery in Moscow **(FIG. 15),** inspired two pastiches depicting the same model reclining on the podium and standing near it. The painting depicting the reclining nude **(FIG. 16)** belonged to the above-mentioned Edik Natanov and was paraded through a succession of provincial Russian museums. The canvas with the standing model was featured in the exhibition of the Toporovsky Collection at the MSK Ghent **(FIG. 17).**

If Natanov's nude proved to be just a dull pastiche of a Tatlin in the Tretyakov Gallery, the unknown author of Toporovsky's canvas demonstrated a level of irony unexpected for a faker. In his revisitation of the canvas, he combined the style of Tatlin with an image likely borrowed from William-Adolphe Bouguereau's *Après le bain* **(FIG. 18).** Such a mixture of Russian Cubo-Futurism and French Salon painting obviously has a postmodernist aftertaste.

The MSK affair not only created a scandal in Belgium, it demonstrated that the most distinguished museums are vulnerable to criminal schemes intended to "whitewash" forgeries. The Ludwig Museum exhibition was at the other end of the spectrum. But both shows confirmed that the time for action is ripe. It is difficult to say if an enterprise like the Rembrandt Research Project is possible for the Russian avant-garde. More likely, the investigation of suspicious artworks must be conducted by individual museums cooperating with experts and other research institutions.

Art authentication will soon be divided into Before and After machine learning. The Avant-garde Art Research Project (The AARP) in partnership with Hephaestus Analytical (UK – USA), recently began applying AI-authentication techniques to works of the Russian avant-garde. Statistical analysis of high resolution images can reveal an artist's invariant characteristics: the distinctive pressure applied to brushstrokes; the habitual spacing of compositional elements; the proximity of certain pigments to one another. Techniques of analysis borrowed from astronomy and macroeconomics that measure phenomena beyond the reach of the five senses can combine to reveal patterns intrinsic to each artist: a digital fingerprint that manifests itself as a multi-dimensional contour. Essentially, paintings that fall within the limits of the contour are 99.2% likely to have been created by the same artist. The algorithms were recently tested, and they detected the already

FIGURE 17. Attributed to Vladimir Tatlin, ***Model,*** not dated. Oil on canvas. 135 x 54.8 cm. Collection of Igor Toporovsky. Ph. courtesy K. Akinsha.

FIGURE 18. William-Adolphe Bouguereau, *Après le bain,* 1875. Oil on canvas. 178 x 88.5 cm. Private collection.

mentioned forgery from the collection of the Ludwig Museum that had previously been attributed to El Lissitzky **(FIG. 3)**. In the near future, Hephaestus and the AARP will be applying these techniques to other paintings and collections.

At the same time, scientists — notably Dr. Svetlana Pisareva and Irina Kadlikova of the Laboratory of Physical and Chemical Research, the State Research Institute for Restoration, Moscow, and Dr. Jilleen Nadolny of ArtDiscovery, London, all of whom spoke at the Ludwig Museum Symposium in November 2020 — are developing databases of pigments found in authentic Russian avant-garde works, as well as databases of pigments found in the fakes but not in authentic works created before 1920. These include Cobalt blue, Cadmium red, and a particular form of lead white. Out of 100 authentic paintings tested, for example, Cadmium red was found in only one.[13]

Today, questionable works attributed to Russian avant-garde artists are present in American museum collections across the country. It is time to pay attention to them, no matter how disillusioning the results of such scrutiny could be.

13 Museum Ludwig, "Symposium Russian Avant-Garde: Original and Fake," November 5–7, 2020.

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ERRATA

In the last issue of *IFAR Journal* (Vol. 21, Nos. 1&2), on page 62 in the Stolen Art Alert, the wrong image was published for item no. 36. Please see the correct entries for item nos. 35 and 36 below:

STOLEN ART

WORKS ON PAPER

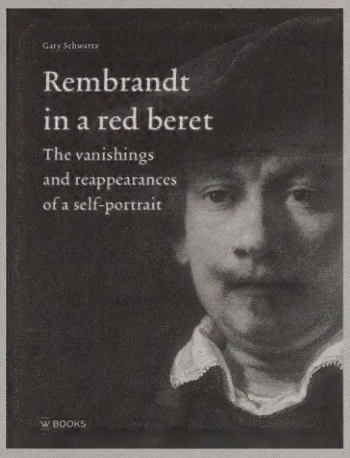
35. **WILLEM DE KOONING** (Dutch/American, 1904-1997). ***Untitled,*** 1965. Oil on paper vellum. 27.94 x 25.4 cm (11″ x 10″). Signed l/l *L20.387. Stolen from a storage unit in Fort Lauderdale, FL on January 20, 2020.

36. **WILLEM DE KOONING.** ***Untitled,*** 1965. Oil on paper vellum. 25.4 x 20.32 cm (10″ x 8″). Signed l/l *L20.388. Stolen from an art fair in Miami Beach, FL on December 3, 2019.

In the 50th Anniversary issue of the *IFAR Journal* (Vol. 20, Nos. 3&4), on p. 90 of Top Ten Missing—Isabella Stewart Gardner Museum Theft, we inadvertently omitted the item below. It is one of the 13 items stolen and still missing from the Isabella Stewart Gardner Museum.

REMBRANDT (Dutch, 1606-1669). ***Self-Portrait,*** ca. 1634. Etching. 4.4 x 5.1 cm. Bartsch no. 2. Rovinski no. 2. Hind no. 57.

Rembrandt in a red beret: The vanishings and reappearances of a self-portrait



326 pp., 26 x 19.5 cm (10¼ x 7¾ in.),
with foldouts in the boards
Published by WBOOKS, Zwolle.
ISBN 978-94-625-8534-8

Available on Amazon

Gary Schwartz

In 1823 the crown prince of the Kingdom of the Netherlands, the future King Willem II, bought for his legendary collection a self-portrait painted by Rembrandt at about the age of 37. The subsequent history of the painting is a drama of warfare impinging on art. The Belgian Revolt of 1830, the First and Second World Wars and the Cold War all had baleful effects on the fortunes of the self-portrait. Most spectacularly, it was stolen in 1921 from the Weimar Museum, where it was on loan from Willem's great-grandson, Grand Duke Wilhelm Ernst von Sachsen-Weimar-Eisenach.

The most novel and original section of the book deals with the events following on the reappearance of the painting in Dayton, Ohio on August 3, 1945, after being bought on the New York docks in 1934 by a plumber for the Frigidaire Corporation. On dubious grounds, it was swept up in the campaign of the Monuments Men to recover art looted by the Nazis. This lead to its being vested under the Trading With the Enemy Act, making it U.S. government property. When 20 years later the U.S., at a fraught moment in East-West relations, wanted to return it to Germany, it was necessary, with immense effort, to amend the Trading With the Enemy Act to do so. The painting never did make its way back to Weimar. No sooner did it land on German soil before it was claimed by Wilhelm Ernst's daughter-in-law. After seven years of legal proceedings, she regained possession, after which, in 1983, she sold it to a German entrepreneur who has since kept it under wraps. Only in December 2022, with the publication of this book, did it make another of its reappearances.

The eminent Rembrandt specialist Gary Schwartz tells the unknown story of the painting in all its colorful details. He also deals extensively with the question of its attribution to Rembrandt, which has been cast into doubt but which he defends. In an appendix, a complete technological report by a leading Swiss laboratory is summarized.

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COURBET LOST AND FOUND:

THE FATE OF THE FRENCH REALIST'S WORKS IN WORLD WAR II GERMANY

PETRA TEN-DOESSCHATE CHU*

In fall 2018, contemporary artist/curator Paul Ramirez Jonas organized an exhibition at 601Artspace in New York City entitled *The Void.* The exhibition was inspired by the artist's view of a slide of Gustave Courbet's *The Stonebreakers* **(FIG. 1)** in an art history class and his jolt on learning that the painting was destroyed in the allied bombing of Dresden in 1945. Ramirez Jonas was profoundly moved by the thought that, thanks to photography, *The Stonebreakers* can still "speak" to us through its imagery; but to those who know that the original is forever gone, "it asks how the loss that results from a massacre, mass murder, genocide, ethnic cleansing, or pogrom transcends each personal injury and becomes an injury to all."[1]

FIGURE 1. Gustave Courbet, *The Stonebreakers,* oil on canvas, 1849. Photograph after the painting, destroyed in 1945, formerly in the Gemäldegalerie, Dresden. Photo: Wikimedia Commons.

The loss of *The Stonebreakers* refuses comparison to the loss of some 25,000 lives in the same Dresden bombing, not to speak of the estimated total of 70–85 million lives lost during World War II. Yet for Ramirez Jonas, seeing a slide of *The Stonebreakers* and learning of its obliteration had a more powerful emotional impact than the statistics. The painting for him became a symbol not merely for the disaster that befell Dresden in World War II but for all senseless destruction.

Although it was one of the highlights of the Dresden Gemäldegalerie since its acquisition by that museum in 1904, *The Stonebreakers,* unlike most of the contents of the Dresden museums, was not moved to offsite storage at the beginning of World War II.[2] It perished with the truck transporting it out of Dresden in 1945 in a last-ditch effort to save it and other works left behind in the city. Persistent rumors of its survival, once thought credible, today are seen as the stuff of mystery novels.[3]

The Stonebreakers is not the only work by Courbet to have disappeared during World War II. Many other paintings by the artist were either destroyed or went missing, especially at the end and immediately after the war. This article not only highlights these works—including some that have recently come to light again, but also correlates the considerable loss of Courbet paintings in Germany with the heightened

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1 Artist's introduction to the exhibition. See https://cargocollective.com/601Artspace_classic.

2 Though saved, through this measure, from the bombardment of Dresden, many of these works were removed by the Russians and taken to Leningrad. See Konstantin Akinsha and Grigorii Kozlov, *Beautiful Loot: The Soviet Plunder of Europe's Art Treasures* (New York: Random House, 1995), pp. 112–132. Eventually, however, the majority were returned. See Denis Mahon, "Editorial: The Dresden Pictures," *The Burlington Magazine* 98, 640 (July 1956), pp. 221–223 and p. 225.

3 In 1994, art dealer, auctioneer and author Philip Hook published *The Stonebreakers*, an entertaining mystery novel that tells the story of a British art dealer who, spurred on by a buzz about the painting's survival, travels to Argentina, only to have his hopes dashed, forcing him to reluctantly accept the destruction of the painting.

"The heavy loss of paintings by Courbet during World War II, including important works like *The Stonebreakers* ... was the unanticipated result of this acquisition activity."

interest in the artist's works during the reign of Kaiser Wilhelm II (1890–1918). This interest was nurtured by art dealers as well as critics, who promoted the artist as a major forerunner of Modernism, and led to numerous acquisitions both by museums and private collectors in Germany during the first two decades of the twentieth century. The heavy loss of paintings by Courbet during World War II, including important works like *The Stonebreakers, The Awakening (Venus and Psyche)* **(FIG. 2),** and *Portrait of Jean Journet* (the latter rediscovered more than six decades after the end of the war; see below), was the unanticipated result of this acquisition activity. The fate of Courbet's paintings in Germany is not unique. Indeed, this article may be read as a case study of the eager embrace of French Modernism in Germany in the late nineteenth and early twentieth centuries and the consequences thereof during World War II.[4] However, it also aims to emphasize that the Courbet story stands out from others for the loss of a canonical work in the history of art—*The Stonebreakers*—whose destruction has become an emblem of the heavy price of war.

COLLECTING COURBET IN GERMANY

In April 1904, Woldemar von Seidlitz (1850–1922), a top official in the management of the Royal Museums in Dresden, Germany, acquired Gustave Courbet's *The Stonebreakers* (1849) in Paris for the price of 45,000 francs.[5] The painting had belonged to the color merchant Louis-Alfred Binant (1823–1904), whose estate was auctioned off after his death at the famous Paris auction house, the Hôtel Drouot.[6] Seidlitz was keenly aware of the importance of his acquisition. Six years earlier, in an essay on the development of modern painting ("Die Entwicklung der modernen Malerei"), he had ranked Courbet, the artist who "in the year 1851 had revolutionized all of Europe with his painting of the two stonebreakers," among the pioneers of modern painting.[7]

FIGURE 2. Gustave Courbet, *The Awakening (Venus and Psyche).* Photograph (by Robert Jefferson Bingham, taken in 1864) after the painting destroyed in 1945, formerly in the collection of Otto Gerstenberg, Berlin. Photo: Wikimedia Commons.

4 On the collecting of French paintings during the Wilhelmine period and the subsequent Weimar republic, see Andrea Pophanken and Felix Billeter, eds., *Die Moderne und ihre Sammler: Französische Kunst in deutschem Privatbesitz vom Kaiserreich zur Weimarer Republik* (Berlin: Akademieverlag, 2001).

5 Sale Hôtel Drouot, Paris, 20–21 April 1904, no. 19. An annotated copy of the auction catalogue *(Catalogue des tableaux modernes et anciens ... dont la vente, par suite du décès de M. A. Binant, aura lieu à Paris, Hôtel Drouot ... les Mercredi 20 et Jeudi 21 Avril 1904),* available on the internet site Gallica (https://gallica.bnf.fr), lists both the buyer ("Musée de Dresde") and the price.

6 Courbet had sold the painting to the well-known collector Laurent Richard in 1867 for 16,000 francs. See Petra ten-Doesschate Chu, ed., *Correspondance de Courbet* (Paris: Flammarion, 1996), p. 283. Richard, at one point, must have sold it to the dealer Georges Petit, who is listed as the lender of the painting in the catalogue of the 1882 exhibition of Courbet's work in the Ecole des Beaux-Arts (cat. no. 4). Already in a letter dated September 6, 1869, Courbet wrote that "M. Petit" had sent *The Stonebreakers* to the Glaspalast exhibition in Munich (Chu, *Correspondance,* p. 313, letter 69–8). It is not known whether by then, Petit had bought the painting from Richard or whether he acted on the collector's behalf. Nor do we know when it was acquired by Binant. On the uncertainty about the exact provenance history of the painting, see Richard Rankin, *Gustave Courbet's "Les Casseurs de pierre"* (Aarhus: Aarhus University Press, 1988, p. 113.

7 "... der im Jahre 1851 ganz Europa durch sein Bild der beiden Steinklopfer revolutionirte." W. von Seidlitz, "Die Entwicklung der modernen Malerei," *Sammlung gemeinverständlicher wissenschaftlicher Vorträge,* series 12, issue 265 (1898), pp. 17–18.

The purchase of *The Stonebreakers* by a German museum (despite aspirations of museums in France[8]) was symptomatic of a new awareness of Courbet's artistic importance in Germany during the early twentieth century. To be sure, the interest in the artist's work was not new. Courbet's ties to Germany went back to the early 1850s. In 1852, A *Burial at Ornans* (1849–50; Musée d'Orsay, Paris) and the artist's *Self-portrait with Pipe* (1849; Musée Fabre, Montpellier) had been shown in a group exhibit in the Frankfurt Lederhalle.[9] In 1858 he had been invited by the Frankfurter Kunstverein to submit four large paintings to the union's exhibition.[10] In August of that year, the artist traveled to Frankfurt, where he would stay until February, painting, hunting, and making friends (and some enemies) among German artists. Ten years later, Courbet exhibited seven works at the first Internationale Kunstausstellung in the Glaspalast in Munich, including large works like *The Stonebreakers* (cat. no. 1395), *Siesta during Haymaking Time* of 1868 (cat. no. 1392), now in the Musée du Petit Palais in Paris, and *The Kill of the Deer* of 1867 (cat. no. 1579), now in the Musée des Beaux-Arts et d'Archéologie in Besançon.[11]

The Franco-Prussian war of 1870 and its aftermath disrupted Franco-German contacts. At the same time, the scattering of Courbet's oeuvre after his 1871 imprisonment and subsequent self-imposed exile in Switzerland,[12] ending with his death in 1877, made access to his work difficult. But by the 1880s and especially in the 1890s, interest in Courbet revived and not least in Germany.[13] Publications devoted to the artist became increasingly frequent, and museums, dealers, and collectors sought out his works for acquisition. The popular art history writer Richard Muther (1860–1909) published a short book on Courbet in 1908 (Berlin: Marquardt), after having discussed the artist's work at length in his widely read three-volume *Geschichte der Malerei im 19. Jahrhundert* (Münich, 1893–94).[14] In 1905, the well-known critic Julius Meier-Graefe published *Corot und Courbet: Ein Beitrag zur Entwicklungsgeschichte der modernen Kunst* (Corot and Courbet: A contribution to the developmental history of modern art), in which he identified the two artists as pioneers of modern art, an idea that he enlarged on in his 1924 monograph of Courbet (Munich: Piper).[15] In the first book he wrote, "Were one to name the person who has exerted the most powerful influence, without whom the most important development of our time seems unthinkable, one must cite Courbet."[16]

Influenced by critics such as Muther and Meier-Graefe, German museums began to acquire Courbet's paintings for their nascent collections of modern art. Many of the acquisitions were gifts of enlightened collectors who had started buying Courbets in the 1890s. As early as 1896 (eight years before the acquisition of *The Stonebreakers* by the Dresden Gemäldegalerie), the Alte Nationalgalerie in

8 In his introduction to the sale catalogue, Auguste Dalligny wrote: "Plusieurs musées qui ont manifesté à différentes reprises le désir de la posséder se la disputeront lors de la vente prochaine"("Several museums that at one time or another have demonstrated an interest in owning it will compete for it in the upcoming sale").

9 See Courbet's letter to his parents of June 15, 1852, in Chu, *Correspondance*, pp. 100–101, letter 52–3. Several sources claim that Courbet also exhibited *The Stonebreakers* at this occasion, but this cannot be verified.

10 His submission included *The Grainsifters* (Musée des Beaux-Arts, Nantes) and three hunting pictures, which cannot be identified with absolute certainty.

11 The full text of the Munich exhibition catalogue is available on the *Bavarikon* internet portal (https://www.bavarikon.de).

12 To avoid having to pay reparations for his involvement in the dismantling of the Vendôme Column during the 1871 Commune, Courbet went into self-imposed exile in Switzerland, where he died of cirrhosis of the liver in 1877.

13 On the rehabilitation of Courbet in France, see Linda Nochlin's well-known essay, "The De-politicization of Gustave Courbet: Transformation and Rehabilitation Under the Third Republic," *October* 22 (Fall 1982), pp. 65–78. See also Petra ten-Doesschate Chu, "The Courbet Retrospective of 1882," in Maria Wellington Gahtan and Donatella Pegazzano, ed., *Monographic Exhibitions and the History of Art* (London/New York: Routledge, 2018), pp. 102–113. A paper on the reception of Courbet in Germany, "Form and Emotion: The Chameleonic History of Courbet's Reception in Germany," was presented by Stephanie Marchal at the annual meeting of the College Art Association in New York in (2019) in a session organized at the occasion of the 200th anniversary of Courbet's birth. The paper has not been published as yet.

14 Vol. 2, pp. 157–177 in the English translation: *The History of Painting from the Fourth to the early Nineteenth Century*, English edition tr. from the German and ed. with annotations by George Kriehn (3 vols., New York, London, G.P. Putnam's Sons, 1907).

15 On Meier-Graefe and Courbet, see Jenny Anger, "Courbet, the Decorative, and the Canon: Rewriting and Rereading Meier-Graefe's Modern Art," essay in Anna Brzyski, *Partisan Canons* (Durham: Duke University Press, 2007), 157–177.

16 "Will man den Menschen nennen, der den machtigsten Einfluss ausübte, ohne den die wichtigste Entwicklung unserer Zeit undenkbar erscheint, so wird man Courbet zitieren." Julius Meier-Graefe, *Corot und Courbet* (Leipzig: Insel Verlag, 1905), 214.

Berlin received *The Lock in the Loue River* (1866). The painting was a gift from James Simon (1851–1932), a collector best known for his ownership and subsequent donation to the Berlin museums of the Egyptian *Bust of Nefertiti.*[17] Ten years later, in 1906, the same museum was gifted Courbet's *Eagle Owl Tearing Apart a Dead Roedeer* (1864) **(FIG. 3)** by the banker Carl Hagen (born Levy; 1856–1938) and also in 1906, Guido Henckel von Donnersmarck (1830–1916), who besides being a newly-minted *Fürst (prince)* was one of the richest men in Germany at the time, presented it with one of Courbet's paintings of waves. The subsequent fate of these three paintings during World War II exemplifies that of works in wartime German museum collections in general: *Eagle Owl Tearing Apart a Dead Roedeer* was destroyed by a bomb; *Lock in the Loue River* was looted by the Russians but returned to the museum in the 1950s;[18] only *Wave* survived unscathed.

The Neue Pinakothek in Munich acquired its first Courbet, *Summer Landscape* (c. 1868), in 1906. Five more paintings by the artist came to the museum in 1911 and 1912 as part of the so-called Tschudi-Spende or Tschudi Contributions. The Swiss art historian Hugo von Tschudi (1851–1911) was director of the Neue Pinakothek during the last two years of his life. A major proponent of modern French art, he had long encouraged their acquisition by German museums, in opposition to the conservative *Kunstpolitik* of Kaiser Wilhelm II.[19] To circumvent the reluctance of spending public funds on modern French paintings and sculptures, Tschudi encouraged collectors and dealers to donate such works to the museums with which he was involved. The Neue Pinakothek especially benefited from the *Tschudi Spende* as many donors came forward after his death in 1911 to honor his memory with gifts, which included Courbet's *Portrait of a Woman* (c. 1855) and *Still Life with Apples* (1871), a gift of the Hungarian collector and dealer Marczell Nemes, born Moses Klein (1866–1920); *Landscape near Maizières* (1865), and *Portrait of Emile Olivier* (c. 1860), a joint gift from entrepreneur Eduard Arnhold and banker Robert von Mendelssohn; and *Runaway Horse* (1861), a gift from the French art dealer Durand-Ruel.[20] Ironically, the only "Courbet" that was acquired by Tschudi himself was one that has recently been reattributed (with considerable certainty) to Charles Daubigny (1817–1878), *Lock at Optevoz.*[21] The painting once belonged to Courbet's friend Théodore Duret (1838–1927), who had discussed it (as by Courbet) in his 1918 book on the artist, as had Meier-Graefe in *his* Courbet monograph of 1924.

FIGURE 3. Gustave Courbet, *Eagle Owl Tearing Apart a Dead Roedeer,* oil on canvas, 1864. Destroyed in 1945; formerly in the collection of the Alte Nationalgalerie. Berlin. Photo: Staatliche Museen zu Berlin, Zentralarchiv.

"The subsequent fate of these three paintings during World War II exemplifies that of works in wartime German museum collections in general: *Eagle Owl Tearing Apart a Dead Roedeer* was destroyed by a bomb; *Lock in the Loue River* was looted by the Russians but returned to the museum in the 1950s; only *Wave* survived unscathed."

17 On Simon, see Dietmar Strauch, *James Simon: Der Mann, der Nofretete zur Berlinerin machte* (Berlin: Progris, 2010).

18 The painting was exhibited in the exhibition *Schätze der Weltkultur von der Sowjetunion gerettet (Treasures of World Culture rescued from the Soviet Union)* held in the Nationalgalerie in Berlin in 1958.

19 On this subject, see especially Barbara Paul, *Hugo von Tschudi und die moderne französische Kunst im Deutschen Kaiserreich* (Mainz: P. von Zabern, c. 1993).

20 It is noteworthy that several of the donors, Marczell Nemes, Eduard Arnhold, and Robert von Mendelssohn, were Jewish. The critical role and involvement of Jewish critics, collectors, and, as we'll see later, Jewish dealers, in the acquisition of modernist works of art by German museums, especially the bigger ones like Berlin and Munich, has been studied in depth by Veronika Grodzinski in her two-volume doctoral thesis "French Impressionism and German Jews: The Making of Modernist Art Collectors and Art Collections in Imperial Germany," 1896–1914 (London: University College, 2005).

21 See catalogue exhibition *Das Rätsel der "Schleuse im Tal von Optevoz"* (Munich, Neue Pinakothek, 2014–15).

Not only the three major museums of pre-World War I Germany—Berlin, Dresden, Munich—acquired works by Courbet in the first two decades of the twentieth century, smaller museums did the same. Works came to them as gifts or bequests or through targeted acquisitions. As a result, by the end of the 1930s, one or more paintings by Courbet could be seen in most mid-size cities in Germany.[22]

Many of the paintings that were acquired by German museums in the first two decades of the twentieth century went through the hands of dealers in Berlin, then a center for the commerce in "modern" art. Taking their cue from Paris dealers like Durand-Ruel, Bernheim Jeune, Manzi-Joyant,[23] and others, enterprising young Germans with an interest in the arts set up galleries or "Kunstsalons" in the city.[24] The earliest among them was the Fritz Gurlitt Gallery, founded in 1880 and located in the Behrenstrasse. After Gurlitt's death in 1893, the gallery was relocated to the Leipzigerstrasse and in 1907 Fritz's son Wolfgang, at age nineteen, took over the business. (Wolfgang was a cousin of Hildebrand Gurlitt, more about whom later.) On January 10, 1897, Martin Keller and Carl R. Reiner opened their *Kunstsalon,* Keller & Reiner, on Potsdamerstrasse 118b. Theirs was primarily a gallery of decorative arts, but it also sold paintings and sculptures and organized art auctions. Most important for the distribution of Courbet paintings in Germany was the *Kunstsalon* of the cousins Paul (1871–1926) and Bruno (1872–1941) Cassirer on Viktoriastrasse, founded in 1898.[25] Of all the dealers in Berlin, they had the strongest contacts with France, especially with the Bernheim Jeune and Durand-Ruel Galleries. Numerous Courbet paintings went through the Cassirers' hands, to end up in museums and private collections in Germany as well as in neighboring countries like Hungary and Switzerland.[26]

"[By] the end of the 1930s, one or more paintings by Courbet could be seen in most mid-size cities in Germany."

Intriguingly, the most important German collector of Courbet paintings and French nineteenth-century art, generally, Otto Gerstenberg (1848–1935),[27] acquired few works from Cassirer or other dealers in Berlin, preferring to buy in Paris and London, often paying higher prices than he would have at home. In their essay "Un collectionneur enthousiaste," Stefan Pucks and Hanna Strzoda argue that this had to do with the fact that Gerstenberg's taste was more conventional than that of the Cassirers.[28] As the authors put it, "[The] Cassirers' exhibitions … were always a few years ahead of the collector [Gerstenberg]." With the exception of Toulouse Lautrec, Gerstenberg never embraced the Cassirers' interest in Post-Impressionism but remained firmly anchored in the nineteenth century, especially Realism (Courbet, Daumier) and early Impressionism (Manet, early

22 The Kunsthalle in Hamburg, for example, was given *Winter Landscape with the Dents du Midi* (1876) by the city's Verein von Kunstfreunden von 1870 (Association of Art Friends of 1870) in 1907 and a *Flower Still Life* (1855) by the same group in 1909. Four years later, in 1913, the museum bought *Cave of the Loue River* (1864) with funds bequeathed by the banker Eduard Ludwig Behrens (1824–1895). The Kunsthalle in Bremen bought *Wave* (1869) in 1905. The painting had previously been owned by Julius Meier-Graefe. Nine years later, in 1914, it received *Magnolias* (1863) as a gift from Carl Schütte (1839–1917), board member of the Bremer Kunstverein and patron of the arts. The Städel Museum (formerly Städelsches Kunstinstitut) in Frankfurt acquired *Village Edge in Winter* (1872) from the heirs of the local banker and collector Benedikt Goldschmidt (1831–1906) in 1906. Two years later, the Städelscher Museums-Verein gave the museum one of Courbet's Wave paintings (1869) on permanent loan. The Kunsthalle in Mannheim bought *Horse and Bulldog in the Forest* (1863) from Cassirer in 1910. The Kunsthalle in Karlsruhe received *Cliff at Étretat* (1869?) in 1909 as a gift from the painter Hans Thoma (1839–1924), who was director of the Kunsthalle from 1899 to 1920; in 1927, it bought the *Portrait of Pierre Dupont* (1868) from Dr. Hermann Pagenstecher (1844–1932), a well-known ophthalmologist and art collector in Wiesbaden (as per emails to the author from museum curator Leonie Beiersdorf, 12/5/2022 and provenance researcher Tanja Baensch, 12/7/2022).

23 This gallery was founded in 1897 by Jean Boussod (1860–1907), Michel Manzi (1849–1915), and Maurice Joyant (1864–1930).

24 On this subject, see Malcolm Gee, "Modern Art Galleries in Paris and Berlin, c. 1890–1933: Types, Policies and Modes of Display," *Journal of Art Market Studies* (https://www.fokum-jams.org/index.php/jams/article/view/18/66), n.p.

25 On the Cassirers, see Georg Brühl, *Die Cassirers: Streiter für den Impressionismus* (Leipzig 1991).

26 In Hungary, Cassirer sold works to Marczell de Nemes, in Switzerland to Oskar Reinhart (1885–1965), whose collection today fills two museums, the Oskar Reinhart Collection "Am Römerholz," located in Reinhart's former home on the outskirts of Winterthur, Switzerland; and the Kunst Museum Winterthur, in the center of town.

27 On the collection of Otto Gerstenberg, see Julietta Scharf and Hanna Strzoda, with Janina Dahlmans, *Die historische Sammlung Otto Gerstenberg,* 2 vols (Olsfildern: Hatje Cantz, 2012). On the Courbets in the collection, see, especially, the essay by Klaus Herding, "Courbet in der Sammlung Gerstenberg – Fragen des Lebens and Überlebens," in vol. 1, pp. 208–225.

28 Stefan Pucks and Hanna Strzoda, "Un collectionneur enthusiaste – Otto Gerstenberg in seiner Zeit," in Scharf, Strzoda, and Dahlmans, *Sammlung Otto Gerstenbergs,* p. 32.

"Gerstenberg's collection contained eleven works (ten paintings and one gouache) by or attributed to Courbet, … It was the largest ensemble of Courbet paintings that could be seen anywhere in Germany, including its museums. Unfortunately, it is also the ensemble that was the most affected by the war …"

Monet, Sisley, etc.). Gerstenberg's collection contained eleven works (ten paintings and one gouache) by or attributed to Courbet, including the artist's large canvas *The Awakening (Venus and Psyche),* submitted to the Paris Salon of 1864 but refused on the ground of its immorality;[29] and his *Portrait of Marc Trapadoux Examining a Print Album,* exhibited at the Salon of 1849. It was the largest ensemble of Courbet paintings that could be seen anywhere in Germany, including its museums. Unfortunately, it is also the ensemble that was most affected by the war, as four of Gerstenberg's ten paintings were destroyed.

DESTROYED BY ALLIED BOMBING

While *The Stonebreakers* may well be one of the most notorious art casualties of World War II, it is not unique. Thousands of art works were destroyed, thousands are still missing—many no doubt hiding in private and even public collections around the world. The literature on this subject is enormous and "lost" works still turn up with some regularity.[30]

In Courbet's case, several of the artist's paintings are known to have been destroyed by allied bombs at the end of World War II. In addition to *The Stonebreakers,* burnt during the bombing of Dresden, no less than five paintings we know of were lost in the shelling of Berlin. Among them were Courbet's *Eagle Owl Tearing Apart a Dead Roedeer,* which belonged to the Alte Nationalgalerie, in addition to *The Awakening (Venus and Psyche); Source of the Loue—Doubs* (1863); *Still Life-Ste Pélagie* (1871–72); and *Winter Landscape* (date unknown), in the Gerstenberg collection. The Gerstenberg paintings were stored in the vault of the Victoria Insurance Company (of which Gerstenberg had been the CEO before his death in 1935) on the initiative of his daughter, Margarethe Scharf-Gerstenberg, who had inherited the collection after her father's death in 1935. The building was bombed by the U.S. Air Force on February 3, 1945, and the works were burnt. Fortunately, Scharf had distributed her father's collection over several different locations so that other works by Courbet were preserved, among them, most importantly, the *Portrait of Marc Trapadoux,* exhibited at the Salon of 1849 as *M.T. examinant un livre d'estampes (M.T. Looking at a Print Album)* and presently in the collection of Margarethe Scharf's son Walther **(FIG. 4);**[31] the *Portrait of Francis Wey* (1850); also called *Portrait of Jules Dupré*), now in the Courbet Museum in Ornans; the *Portrait of Gustave Mathieu* (1869), since 1963 in the Oskar Reinhart Collection "Am Römerholz" in Winterthur, Switzerland;[32] and the *Portrait of Rochefort* (1874), in the Norton Simon Museum of Art in Pasadena.[33]

"Several of the artist's paintings are known to have been destroyed by allied bombs at the end of World War II. In addition to *The Stonebreakers,* burnt during the bombing of Dresden, no less than five paintings we know of were lost in the shelling of Berlin."

29 The history of the painting is confusing. In the late winter of 1864, Courbet completed a painting that he intended to submit to the Salon of that year under the title *Etude de femmes (Study of Women),* though he suggested that it could also be entitled *Vénus poursuivant Psyché de sa jalousie (Venus Jealously Watching over Psyche).* See his letter to Etienne François Haro of March 3, 1863 in *Chu, Correspondance,* p. 213, letter 64–4. The painting, with its lesbian overtones, was refused on moral grounds. In his catalogue raisonné of Courbet's work, Robert Fernier reproduced two photographs of the painting (nos. 370 and 371), which apparently differ only in the fact that in the second one Venus carries a parrot on her raised left hand. The latter painting (if it is indeed a separate painting and not identical with no. 370, with a parrot added at a later date) is the one that was in the Gerstenberg collection. In Scharf, Strzoda, and Dahlmans, *Sammlung Otto Gerstenbergs,* it is entitled *The Awakening: (Venus and Psyche),* the title used in this article.

30 An admirable annotated bibliography (before 2017) is found in Sara J. Angel, "A Moral Persuasion: The Nazi-Looted Art Recoveries of The Max Stern Art Restitution Project, 2002–2013," Ph.D. thesis, University of Toronto, 2017, Appendix III (pp. 274–327); see also the bibliography: pp. 328–347.

31 Official ownership listed as Walter, Ev, and René Scharf. The painting was exhibited at the Salon of 1849. A reduced copy is in the Musée des Beaux-Arts de Troyes (40.5 x 32 cm.).

32 The painting was bought by Oskar Reinhart from Margarethe Scharf through the intermediary of Fritz Nathan, Zürich.

33 Sold in 1962 by the Gerstenberg family to Drs. Fritz and Peter Nathan, Zurich; sold by them in 1964 to Paul Rosenberg & Co.; bought in 1972 by The Norton Simon Foundation. Another version of the Rochefort portrait is in the Château de Versailles, Versailles, France.

FIGURE 4. Gustave Courbet, *Portrait of Marc Trapadoux,* oil on canvas, 1849. Collection Walther, Ev and René Scharf. Photo after Charles Léger, *Courbet* (Paris: G. Crès et Cie, 1929), plate 8.

WORKS LOST AND FOUND

In addition to the Courbet paintings that were destroyed, many were caught up in the vast movement of works of art across Europe during and immediately after the war. In the words of Lynn Nicholas *(Rape of Europa),* "Never had works of art been so important to a political movement and never had they been moved about on such a vast scale, pawns in the cynical and desperate games of ideology, greed and survival."[34] *This* movement had many causes, among them, most importantly:

1. the Nazi regime's confiscation and subsequent sale of "degenerate art," which primarily but not exclusively concerned works of contemporary art;

2. the Nazi's appropriation of art in occupied countries, notably by the *Einsatzstab Reichsleiter Rosenberg* or *ERR* (*Reichsleiter* Rosenberg Taskforce);

3. the forced sale of their inventories by Jewish dealers due to the Nazi prohibition on Jewish ownership of businesses;

4. the selling off, by those eager to leave Germany and German-occupied countries (Jews and others undesired by or opposed to the Nazi regime), often to war-profiteering dealers who bought their art at rock-bottom prices;

5. wholesale government-sponsored Russian looting of Germany immediately after the war.

We will never know how many of Courbet's works were part of this mass movement, as much of it cannot be retraced or proven with certainty. Take the example of *The Great Bridge (Le Grand Pont)* (1864) **(FIG. 5),** a painting loaned and eventually bequeathed to the Yale University Art Gallery by the German-born lawyer and collector Herbert Schaefer (1910–2011) and his wife Monika. The circumstances of Schaefer's acquisition of the painting remain clouded in mystery, but credible claims were made in 2000 that the work belonged to a Jewish collector (Josephine Weinmann), whose assets were confiscated after she fled Germany in 1938.[35]

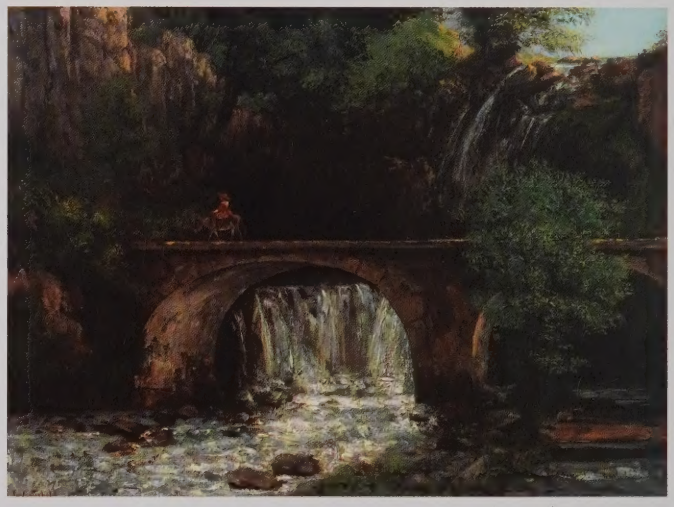

FIGURE 5. Gustave Courbet, *The Great Bridge (Le Grand Pont),* oil on canvas, 1864. Yale University Art Gallery. Gift of Dr. & Mrs. Herbert Schaefer and Mr. Eric Weinmann and family.

34 Lynn H. Nicholas, *The Rape of Europa: The Fate of Europe's Treasures in the Third Reich and the Second World War* (New York: Vintage Books, 1995), p. 444.

35 See "Gustave Courbet Painting Donated to Yale University Art Gallery," *Yale News,* October 23, 2001; also, Patricia Grandjean, "A Nazi Cloud Hangs Over a Painting on Loan to Yale," *New York Times,* March 18, 2001, and Ron Grossman and *Tribune* Staff Writer, "1948 Letter Backs Claim of Nazi Theft," *Chicago Tribune,* February 11, 2001. The two parties claiming the painting ultimately reached a compromise and it is currently listed on the Yale University Art Gallery's website as "Gift of Dr. and Mrs. Herbert Schaefer and Mr. Eric Weinmann and his family."

Also questioned until recently was the provenance of Courbet's *Ronde enfantine (Children's Circle Dance;* c. 1862) in the Fitzwilliam Museum in Cambridge, a painting executed during his stay with Etienne Baudry (its first owner) in the Saintonge region. On March 28, 2023, as this issue of the *IFAR Journal* was about to go to press, the UK Spoliation Panel determined (in a report available online) that the painting was seized in 1941 by two members of the ERR from the Parisian flat of Robert Bing, who had inherited it from his maternal grandmother Clara Ballin Grunebaum, its second owner. The painting was transported to the Jeu de Paume, then serving as a storage place of art confiscated in Paris by the Germans, for the benefit of Hermann Goering. Its fate immediately after the war is unknown, but in 1951 it was bought from the Swiss dealer Kurt Meissner by Arthur Tooth & Sons, who sold it to the Very Reverend Eric Milner White, Dean of York. The latter donated it to the Fitzwilliam Museum that same year. The work will be returned to Bing's heirs.

"As this *IFAR Journal* was about to go to press, the UK Spoliation panel determined … that … Courbet's *Ronde enfantine* was seized in 1941 by two members of the ERR …

THE GURLITT HOARD

Seven paintings by Courbet came to light ten years ago with the notorious "Gurlitt hoard," discovered by German authorities in 2012 in the Schwabing section of Munich, Germany, in the home of Cornelius Gurlitt (1932–2014). The story by now is well known. Cornelius was the son of Hildebrand Gurlitt (1895–1956), an art historian and art dealer, closely linked to the Nazi regime. (He was also the cousin of Wolfgang Gurlitt, mentioned earlier.) Despite being one quarter Jewish, Hildebrand was one of four dealers appointed in 1936 to the *Kommission zur Verwertung der Produkte entartete Kunst* (Commission for the Exploitation of Works of Degenerate Art), charged with monetizing the more than 16,000 confiscated works of so-called Degenerate Art abroad,[36] as well as a member of a committee (formed in 1940) charged with confiscating art works in France for Hitler's planned *Führermuseum* in Linz, Austria. As an art dealer, Gurlitt no doubt, profited from the war, though not all his transactions were dishonest. As a dealer-collector, he kept many works, especially works on paper, in his private collection, which was inherited by his son Cornelius. When Cornelius Gurlitt's collection was discovered in 2012, it was suspected that many of the works would be in the category of art improperly acquired during the Nazi regime. Gurlitt denied this, but eventually agreed to an in-depth provenance research project of his collection, which was carried out, first, by the Schwabing Art Trove Taskforce, then by the Gurlitt Provenance Research Project, which continued its work until December 31, 2017.[37] Cornelius died before this long and cumbersome project was completed. In the end, only a small number of works could be definitively documented as Kunstraub. The others went to the museum in Bern, as per Cornelius's will.[38] The museum continues the provenance research of the collection and its database of the collection includes, for each work, the following caveat: "The provenance from 1933 to 1945 has not been unambiguously clarified; gaps in the ownership history remain. According to current research, there is no evidence of looted art. There are no implications of looted art and / or conspicuous circumstances."

The long-lost Courbet portrait of Jean Journet, the self-described "Fourierist apostle," was one of the great discoveries in the Gurlitt trove **(FIG. 6).** Exhibited at the Salon of 1850 together with the *Burial at Ornans* and *The Stonebreakers,* the painting, once in the collection of Jean-Paul Mazaroz-Ribalier, a furniture manufacturer and collector

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36 On Hildebrand Gurlitt, see Meike Hoffmann and Nicola Kuhn, *Hitlers Kunsthändler: Hildebrand Gurlitt* 1895–1956 (Munich: C.H. Beck, 2016). A complete typewritten list of these confiscated works is in the Victoria and Albert Museum in London. See also Sharon Flescher and Michele Wijegoonaratna, "The Tangled Web of a Munich Art Trove," *IFAR Journal,* Vol. 14, no. 4/Vol. 15, no. 1, 2014, pp. 3–14.

37 Gurlitt Provenance Research Project, https://www.kulturgutverluste.de/Webs/DE/ProjektGurlitt/Provenienzrecherche-Gurlitt/Index.html.

38 For a complete database of the Gurlitt estate on the website of the Kunstmuseum in Bern, see https://gurlitt.kunstmuseumbern.ch/en/.

FIGURE 6. Gustave Courbet, ***Portrait of Jean Journet,*** oil on canvas, 1850. Presumed lost or destroyed in WWII. Resurfaced in 2012 as part of the Gurlitt trove. Kunstmuseum Bern (Gurlitt Bequest). Photo: Kunstmuseum Bern.

FIGURE 7. Gustave Courbet, ***The Apostle Jean Journet Setting Out for the Conquest of Universal Harmony*** (L'Apôtre Jean Journet partant pour la conquête de l'harmonie universelle), lithograph, 1850. National Gallery of Art, Washington, D.C., Ailsa Mellon Bruce Fund. Photo: Wikimedia Commons.

from Lons-le-Saulnier, was auctioned after the latter's death in 1890; its subsequent ownership is only sporadically known. Presumably, it was acquired by Hildebrand Gurlitt sometime in the 1940s, but the painting has not been claimed by any Holocaust heir or other prior owner. Until it resurfaced in 2012, most Courbet scholars assumed it was lost or destroyed in the war and, when discussing it, relied on a lithograph made by Courbet after the painting, entitled *The Apostle Jean Journet Setting Out for the Conquest of Universal Harmony* (L'Apôtre Jean Journet partant pour la conquête de l'harmonie universelle)[39] **(FIG. 7).** Other notable Courbet paintings in the Gurlitt collection include *Village Girl with Small Goat* (c. 1860) **(FIG. 8),** a slightly reduced version of a painting in the Courbet Museum in Ornans, and one of several paintings executed by the artist in the 1860s that depict half-length female figures, more or less eroticized through their clothing and/or demeanor.

FIGURE 8. Gustave Courbet, ***Village Girl with Small Goat,*** oil on canvas, c. 1860. Kunstmuseum Bern (Gurlitt Bequest). Photo: Kunstmuseum Bern.

39 The image is surrounded by a complainte or lament, a format derived from contemporary popular woodcuts. For a full discussion of the painting and its rediscovery, see Jeanne Willette, "Rediscovering a Long-Lost Courbet: Rethinking Courbet's Jean Journet." Available online: www.academia.edu/20018458/Rediscovering_a_Long-Lost_Courbet_ Rethinking _Courbets_Jean_Journet_ (21 July 2016).

"The long-lost Courbet portrait of Jean Journet, the self-described 'Fourierist apostle,' was one of the great discoveries in the Gurlitt trove. … Presumably, it was acquired by Hildebrand Gurlitt sometime in the 1940s, but the painting has not been claimed by any Holocaust heir or other prior owner. Until it resurfaced in 2012, most Courbet scholars assumed it was lost or destroyed in the war …"

CONCLUSION

This article has presented a case study of the effects of WWII on the oeuvre of Gustave Courbet, making the claim that these effects were made worse by the pre-War enthusiasm in Germany for his art. Analogous case studies could be written about other French modernist artists, including Manet and many of the Impressionists and Post-Impressionists. What makes Courbet's story different, however, is the number of signature works that disappeared forever, or for many decades: the *Portrait of Jean Journet, The Awakening (Venus and Psyche),* and especially *The Stonebreakers*, an iconic painting that, with its "invisible" people laboring to build the network of roads that will lead France to modernization, in many ways sums up the nineteenth century. For many this painting has become emblematic for the absurdity of war and the pointless destruction of life and human creation it causes.

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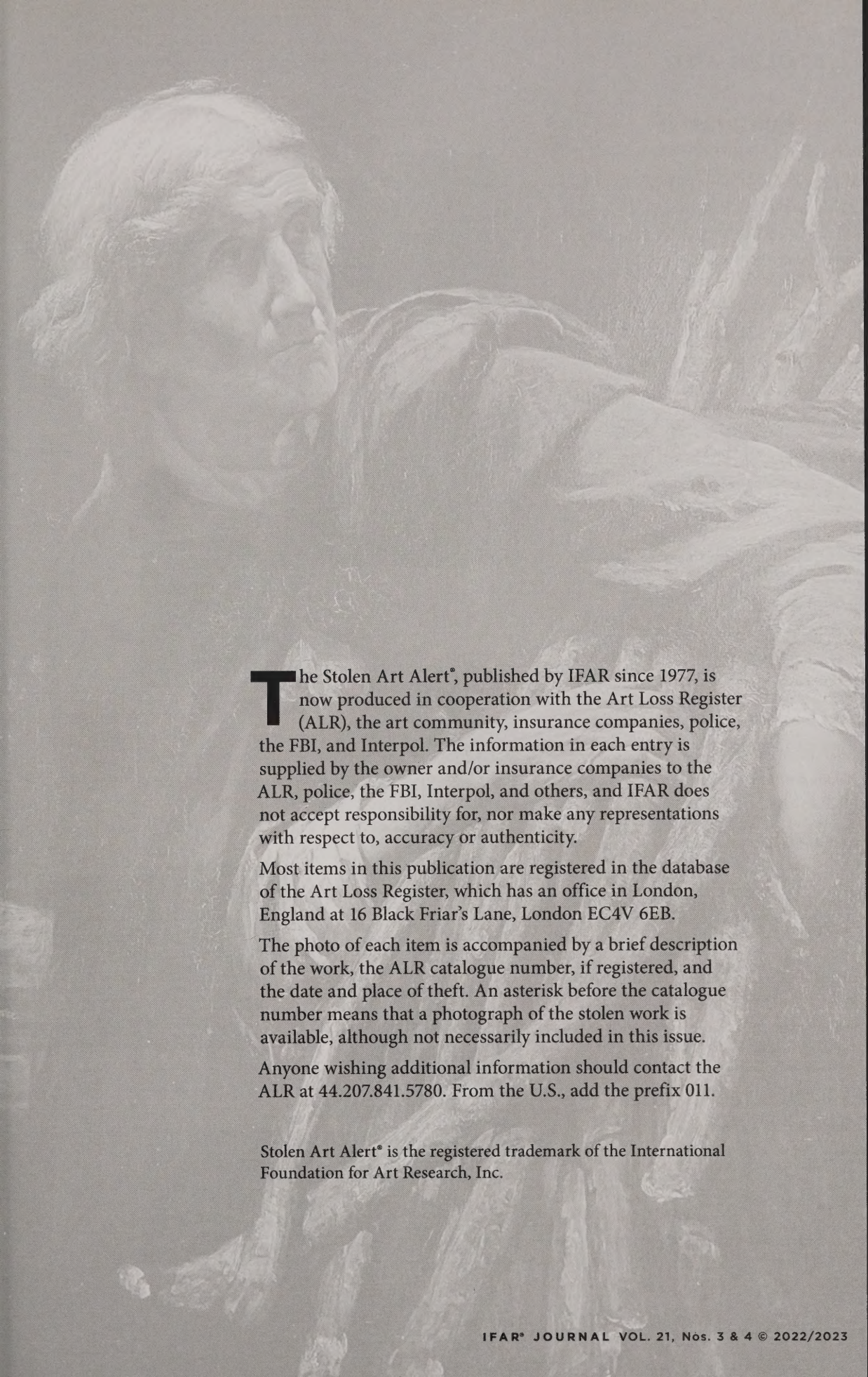

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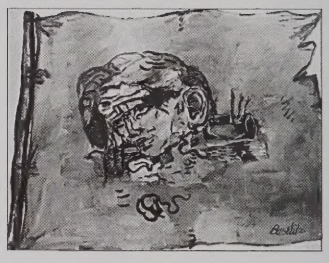
STOLEN ART*

PAINTINGS

113. **ÉTIENNE ALLEGRAIN** (French, 1644-1736). ***Landscape with Venus and Adonis.*** Oil on canvas. 35 x 180 cm (approx. 53 ⅛″ x 70 ¾″). *I22.4. IPGS case ref. 2022.5. Stolen from a museum in Soissons, France between 1950 and 1952.

113

114. **GEORG BASELITZ** (German, born 1938). ***Fahne.*** Oil on canvas. 130 x 160 cm (approx. 51 ⅛″ x 63″). *L21.1036. Stolen in transit between Wallonia, Belgium and Munich, Germany on October 1, 1993.



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115. **ELSE BERG** (German/Dutch, 1877-1942). ***Mallorca,*** 1914. Oil. 37.01 x 46.99 cm (approx. 14 ½″ x 18 ½″). Signed l/r. *L22.1188. Stolen from private residence in Amsterdam, The Netherlands between May and June, 2021.

115

116. **MARTIN BORGORD** (Norwegian/American, 1869-1935). ***Larense Vrouw (Griet Smit-Calis),*** 1909. Oil on canvas. 41 x 33 cm (approx. 16 ⅛″ x 13″). Signed u/l. Label on verso: Singer Museum inv. no. 56-1-137; artist, title, date and provenance: Schenking Anna Singer-Brugh, 1956. *L20.1612. Stolen from City Hall Laren, The Netherlands on March 29, 2004 while on loan from the Singer Museum.

116

117. **BERNARD BOUTET DE MONVEL** (French, 1881-1949). ***Eleanor Emily Woodward (Mrs. John A. Vietor),*** 1937. Oil on canvas. 86.51 x 71.5 cm (approx. 34″ x 28 ⅛″). *L21.1260. Stolen from a residential garage in Los Angeles, CA on May 25, 2009.

117

118. **ROBERTO BURLE MARX** (Brazilian, 1909-1994). ***Untitled.*** See color photo on inside back cover.

119. **JEAN-DOMINIQUE VAN CAULAERT** (French, 1897-1979). ***Pond and Row Boat,*** 1958. Oil painting. 45.72 x 60.96 cm (18″ x 24″). Signed in red l/r. *L20.956. Stolen from a private residence in Royal Palm Beach, FL on July 12, 1998.

119

120. **GUIDOCCIO DI GIOVANNI COZZARELLI** (Italian, 1450-1517). ***Madonna with Child, Saint Margaret of Antioch, and Saint Sebastian.*** Painting on panel. 65 x 41 cm (approx. 25 ½″ x 16 ⅛″). IPGS case ref. 2022/31. *I22.27. Stolen from a church in Siena, Italy on March 9, 2021.

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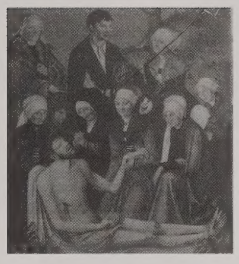
*Numbering for the Vol. 21 Cumulative Index of Stolen Art began with Vol. 21, nos. 1&2.

121



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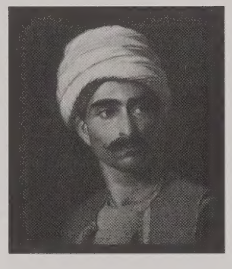

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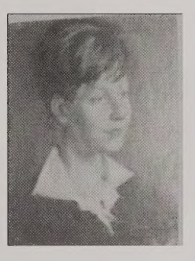

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121. **LUCAS CRANACH THE ELDER** (German, 1472–1553). ***Portrait of Luther,*** 1529. Oil on panel. 39.5 x 23 cm (approx. 15 ½″ x 9″). *I20.102. IPGS case ref. 2020/95. Stolen from a museum in Wrocław, Poland on December 31, 1945.

122. **LUCAS CRANACH THE ELDER** (German, 1472-1553). ***The Lamentation.*** Oil on panel. 155 x 132 cm (approx. 61″ x 52″). *I20.105. IPGS case ref. 2020/96. Stolen from a museum in Wrocław, Poland between September 1939 and December 1945.

123. **CLAUDE-MARIE-PAUL DUBUFE** (French, 1790-1864) (after). ***Portrait of Hassan El Berberi, Keeper of the Giraffe of King Charles X of France,*** c. 1827. Oil on canvas. 50 x 45 cm (approx. 19 ¾″ x 17 ¾″). *L21.200. Stolen in transit in Cologne, Germany on December 2, 2020.

124. **BERNARD DUNSTAN** (English 1920-2017). ***Portrait of Helen Jean Murray,*** c. 1950. 31.75 x 25.4 cm (12 ½″ x 10″). *L19.1919. Stolen from a private residence in London, England on June 9, 2010.

125. **ANTON EBERT** (Czech, 1845-1896). ***Visit to the Opera.*** Oil on canvas. 79 x 63.5 cm (approx. 31 ⅛″ x 25′). *I20.126. IPGS case ref. 2020/113. Stolen in Benidorm, Spain between October 2019 and January 2020.

126. **ALBERT GUSTAF ARISTIDES EDELFELT** (Finnish, 1854-1905). ***Underneath the Birch Trees,*** 1882. Oil on canvas. 92.5 x 134.49 cm (approx. 36 ⅜″ x 53″). Signed l/r. *I20.157. IPGS case ref. 2020/183. Stolen in Spała, Poland between September 1939 and December 1945.

127. **HENRI FANTIN-LATOUR** (French, 1836-1904). *Flowers*, 1885. See color photo on inside back cover.

128. **NICOLAI IVANOVICH FECHIN** (Russian, 1881-1955). ***Calla Lilies,*** 1948. Oil on canvas. 60.96 x 50.8 cm (24″ x 20″). *L21.13. Stolen from a private residence in Albuquerque, NM on November 29, 2020.

129. **JOSEPH FLOCH** (Austrian, 1895-1977). ***The Road to Turenne,*** 1939. Oil on canvas. 38.51 x 46.51 cm (approx. 15 ⅛″ x 18 ¼″). *I20.36. IPGS case ref. 2020/30. Stolen from a salesroom in Vienna, Austria on December 10, 2019.

STOLEN ART

130. **CHARLES XAVIER AUGUSTE FOLK** (French, born 1920). ***Forest.*** Oil on canvas. *I20.19. IPGS case ref. 2015/54467. Stolen in Strasbourg, France in January 2009.

131. **BARON GÉRARD** (French, 1770-1837). ***Venus and Psyche,*** 1798. Oil on canvas. 182.88 x 120.08 cm (72″ x 52″). *L19.1868. Stolen from a private residence in Atlantic City, NJ on November 15, 1969.

132. **NATALIA GONCHAROVA** (Russian, 1881-1962). ***Dahlias.*** Oil on canvas. 66 x 43 cm (approx. 26″ x 17″). *I20.18. IPGS case ref. 2015/54337. Stolen in Brioude, France on May 28, 2014.

133. **TOM HAYWARD** (American, contemporary). ***Abstract Painting,*** c. 1960-70. Oil on canvas. 63.5 x 94 cm (25″ x 37″). Signed l/r. *L22.2249. Stolen in transit in East Lansing, MI on August 20, 2022.

134. **ALICE MERRILL HORNE** (American, 1868-1948). ***Seashells and Crab from the Seashore,*** c. 1890-1930. Oil on canvas. 50.8 x 89 cm (20″ x 35″). *L21.1488. Stolen in transit in San Jose, CA on May 21. 2021.

135. **VILMOS HUSZÁR** (Hungarian 1884-1960). ***Portrait of Adriana Jacoba Clasina Veeren (1836-1917),*** 1907. Oil on canvas. 82 x 59 cm (approx. 32 ¼″ x 23 ¼″). Registered by the RKD under IB number 63488. *L21.634. Stolen from the CBG Netherlands Centre for Family History in The Hague, The Netherlands on May 16, 2004.

136. **YOURI JARKIKH (JARKI)** (French/Russian, born 1938). ***Duo,*** c. 1980. Oil on canvas. 92.51 x 72.49 cm (approx. 36 ⅜″ x 28 ½″). Signed on the recto and verso. *L20.399. One of two paintings stolen in transit in Moscow, Russia on January 12, 2020.

137. **JOHN JOBSON** (Irish, born 1941). ***Tidal Creek,*** 2012. Oil on board. 15.24 x 10.16 cm (6″ x 4″). Signed on the recto and verso. *L20.504. One of three paintings stolen at the Dublin Airport in Ireland on February 1, 2020.

138. **FREDERIK ANTON KIEVITS** (born Indonesia, 1887; died The Netherlands, 1951). ***Indonesian Landscape / Flamboyant Trees,*** c. early 20th century. Oil on Canvas. 49.99 x 70 cm. Signed l/r. *L22.171. Stolen from private residence in Leiderdorp, Netherlands on May 29, 1980.

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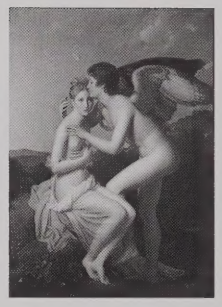

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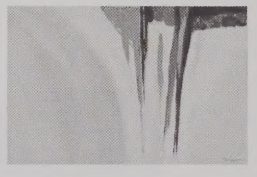

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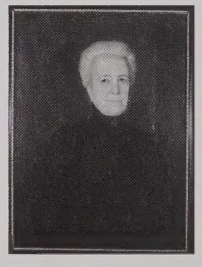

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139. **WOLE LAGUNJU** (Nigerian/American, born 1966). ***The Man Who Gazed at the Daylight Moon,*** 2021. See color photo on inside back cover.

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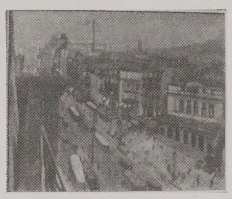
140. **JOHANN GUSTAV LANGE** (German, 1811-1887). ***Homestead on the Forest Stream,*** 1850. Oil on canvas. 32 x 42 cm (approx. 12 ½″ x 16 ½″). *L20.975. Stolen in Cologne, Germany on October 15, 2018.

141

141. **CHARLES LE BRUN** (French, 1619-1690). ***Portrait of Christ.*** Oil on panel. *I22.21. IPGS case ref. 2021/250. Stolen from a church in Le Coudray-Montceaux, France between January 2018 and October 2021.



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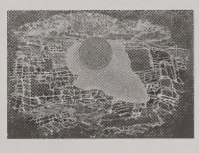
142. **HECTOR LETELLIER** (French, 1880-1954). ***Boulevard Bonne-Nouvelle Paris,*** c. 1900-30. Painting on canvas. 51 x 61 cm (approx. 20″ x 24″). Signed l/l *I22.17. IPGS case ref. no. 2021.279. Stolen from a police station in Leuven, Belgium on April 29, 2008.

143

143. **ALPHONSE MARIE MUCHA** (Czech, 1860-1939). ***Portrait of a Lady in Black,*** 1917. Oil on canvas. 119.38 x 106.68 cm (47″ x 42″). Signed/dated l/r. *L22.511. Stolen in transit between Falls Church, VA and Dorset, England on November 24, 2021.



144

144. **DAVID PEARCE** (English, born 1963). ***Troy,*** 1997. Acrylic and sand on canvas. 86.36 x 121.92 cm (34″ x 48″). *L20.957. One of three paintings stolen in transit between Hawaii and Boston on January 1, 2010.

145

145. **JOSEF PIRKNER** (Austrian/ Dutch, born 1927). ***Rape of the Sabines,*** 2007. Acrylic on canvas. 100 x 80 cm (approx. 39 ⅜″ x 31 ½″). Signed l/l *I20.155. IPGS case ref. 2020/178. Stolen from a workshop in Tristach, Austria between January 2018 and October 12, 2020.

146

146. **PAULUS POTTER** (Dutch, 1625-1654). ***Farm Scene with Well and Cattle.*** Oil painting. 40.64 x 35.56 cm (16″ x 14″). *L21.47. Stolen from a private residence in Brunswick, ME on January 10, 2021.

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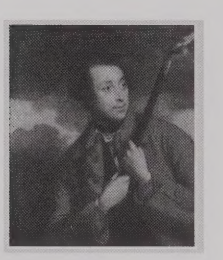
147. **JOSHUA REYNOLDS** (English, 1723-1792). ***General James Inglis Hamilton,*** c. 1756-60. Oil on canvas. 76.3 x 63.5 cm (approx. 30″ x 25″). Inscription below center left: General James Hamilton/of Murdestoun. *I20.117. IPGS case ref. 2020/109. Stolen from a private residence in London, England on May 27, 2020.



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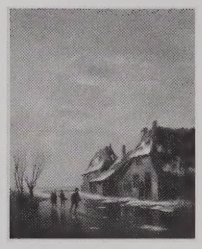
148. **NICOLAAS JOHANNES ROOSENBOOM** (Dutch, 1805-1880). ***Skater and Wood Gatherers on a Frozen Canal,*** 1830. Oil on panel. 23.6 x 19.2 cm (approx. 9 ¼″ x 7 ½″). Signed l/r. *I20.134. IPGS case ref. 2020/125. Stolen from a cellar in Hilversum, The Netherlands between March 20, 2020 and June 10, 2020.



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149. **PETER PAUL RUBENS** (Flemish, 1577-1640). ***Madonna and Child.*** 115.57 x 96.52 cm (45 ½″ x 38″). *L21.493. Stolen at Home Depot in Morrow, GA on April 27, 2021.

149

150. **ALEXANDRE SARKISSIAN** (Romanian, born 1953). ***Surreal Female Figures at Play with Egg Elements,*** 2014. Oil on canvas. 40.01 x 54.99 cm (15 ¾″ x 21 ⅝″). Signed/dated l/l. On the verso: a dedication to the buyer dated 8/11/19. *L19.1693. Stolen at La-Guardia Airport in New York City on August 16, 2019.

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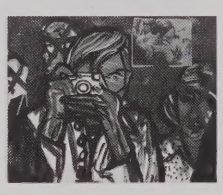
151. **DREW A. SCHNIEROW** (American, 1967-2019). ***Untitled (Bill Cunningham),*** 2003. Painting and collage on canvas. 60.96 x 91.44 cm (24″ x 36″). *L22.2029. Stolen in transit between Los Angeles, CA and Stillwater, MN on June 21, 2022.



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152. **VLADIMIR EVGRAFOVIČ TATLIN** (Russian and Soviet, 1885-1953). ***Composition with Transparent Planes,*** 1916. See color photo on inside back cover.

153. **Unknown Artist** (15th century). ***Portrait of a Man***. Oil on panel. 22 x 13.5 cm (approx. 8 ⅝″ x 5 ¼″). On verso is a painting of a coat of arms. *I20.104. IPGS case ref. 2020/97. Stolen from a museum in Poznan, Poland in 1949.

153

154. **FREDERICK VAN VALCKENBORCH** (Flemish, 1566-1623). ***Landscape with /Fishermen and Resting Couple,*** 1620. Oil on canvas. 64 x 84 cm (approx. 25 ¼″ x 33″). IPGS case ref. 2021/12. *I22.22. Stolen from a church in Kremsmünster, Austria between December 2018 and January 2021.

154

155. **STEVEN VAUGHAN** (American, contemporary). ***Denial River,*** 2014. Acrylic on aluminum panel. 182.88 x 121.92 cm (72″ x 48″). *L21.357. Stolen in transit in Greenwich, CT on January 31, 2015.

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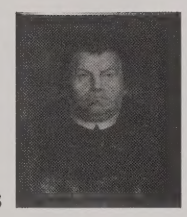

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156. **KAREL VERLAT** (Belgian, 1824-1890). ***Still-life.*** Painting on panel. 60 x 60 cm (approx. 23 ⅝″ x 23 ⅝″). *I22.15. IPGS case ref. no. 2021.286. Stolen from a private residence in Sint-Martens-Latem, Belgium on November 21, 2021.

157. **REINAUD VAN VUGHT** (Dutch, born 1960). ***Untitled,*** 2020. Acrylic on panel. 15 x 30 cm (approx. 6″ x 11 ¾″). *I20.139. IPGS case ref. 2020/136. Stolen in Eindhoven, The Netherlands on July 30, 2020.

158. **SIMON WAGNER** (German, 1799-1829). ***Martin Luther,*** 1821. Oil on canvas. *L21.1451. Stolen from a church in Damgarten, Germany on December 22, 1994.

159. **WILLIAM HOWARD YORKE** (English, 1847-1921). ***The R,*** 1901. Oil on canvas. 76.2 x 106.68 cm (30″ x 42″). *L19.1828. Stolen from a private residence in Middlesex, England on July 7, 2019.

The following 6 paintings were among 15 stolen from a private residence in Erkrath, Germany on August 8, 2019. *L19.1735. See also nos. 232-237 and 247-249 below:

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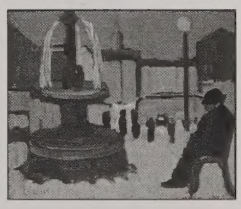

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160. **OSWALD ACHENBACH** (German, 1827-1905). ***Upper Bavarian Landscape with Hay Cart and Pond,*** 1847. Oil on canvas. 20 x 32 cm (approx. 7 ¾″ x 12 ½″). Signed/dated l/r.

161. **CHARLES DE MEIXMORON DE DOMBASLE** (French, 1839-1912). ***Bright winter day in a city in northern France,*** 1879. Oil on canvas. 25 x 40 cm (approx. 9 ¾″ x 5 ¾″). Signed/dated l/r.

162. **CARL IRMER** (German, 1834-1900). ***Carriage Ride on the Edge of the Forest,*** 1873. Oil on canvas. 132 x 103 cm (approx. 52″ x 40 ½″). Signed l/r.

163. **JOSEF KOHLSCHEIN D.J.** (German, 1884-1958). ***Autumn Tree on the Way Edge,*** 1908. Oil on canvas on board. 46 x 56 cm (approx. 18 ⅛″ x 22″). Signed/dated l/r.

164. **GERHARD LARSSON** (Swedish, 1910-1990). ***Am Brunnen,*** 1944. Oil on canvas on masonite. 40 x 50 cm (approx. 15 ¾″ x 19 ¾″). Signed/dated l/l .

STOLEN ART

165. **JULES PASCIN** (Bulgarian, School of Paris, 1885-1930). ***Woman in an Armchair (Geneviève),*** 1926. See color photo on inside back cover.

The following five paintings were stolen from a manor house in Crediton, Devon, England on November 22, 2020 while the residents were out having dinner. *L20.1974:

166. **GEORGE ARMFIELD** (Welsh, 1808-1893). ***Two Spaniels and a Terrier Waiting.*** Oil painting. 38.1 x 50.8 cm (15″ x 20″). On the verso: the owner's postcode in ultraviolet pen.

166

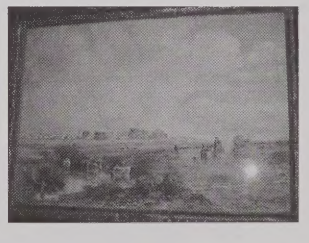
167

167. **CHARLES LESLIE** (English, 1839-1886). ***Snowdonia.*** Oil painting. 63.5 x 88.9 cm (25″ x 35″). On the verso: the owner's postcode in ultraviolet pen.

169

168. **CHARLES LESLIE.** ***Loch Ness.*** See color photo on inside back cover.

169. **EDMUND JOHN NEIMANN** (English, 1813-1876). ***Hampstead Heath,*** 1865. Oil painting. 76.2 x 127 cm (30″ x 50″). On the verso: the owner's postcode in ultraviolet pen.



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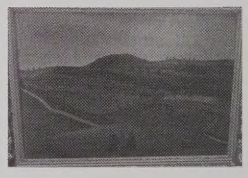

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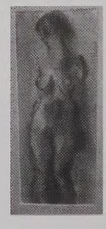
170. **JOSEPH MALLORD WILLIAM TURNER** (English, 1775-1851). ***Untitled.*** Oil painting. 63.5 x 88.9 cm (25″ x 35″).

The following four paintings on cardboard were among six stolen in Zilnia, Slovakia on March 11, 2015. IPGS case ref. 2015/41745. *I20.15:

171. **ANDREJ BARCIK** (Slovak, 1928-2004). ***Slovak Landscape,*** 1995. Oil on cardboard. 44 x 64 cm (approx. 17 ¼″ x 25 ¼″).

172

172. **VINCENT HLOZNIK** (Slovak, 1919-1997). ***Suburb in the Town of Zilnia,*** 1943. Ink and watercolor on cardboard. 66 x 81 cm (approx. 26″ x 31 ⅞″).



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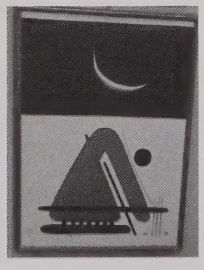
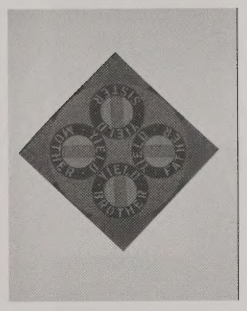
173. **VINCENT HLOZNIK.** ***Nude Woman.*** Watercolor on cardboard. 89 x 51 cm (35″ x 20″).

174. **VLADIMIR KOMPANEK** (Slovak, 1927-2011). ***Moon.*** Oil on cardboard. 70 x 50 cm (approx. 27 ½″ x 19 ⅝″).

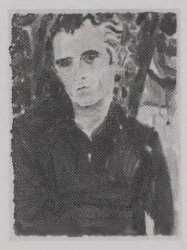


174



176

175



177

178

179

180

The following three paintings were stolen from a storage facility in Southampton, NY on July 22, 2020. *L20.1439. See also nos. 223, 224; 245, 246; 261, 262; 264 below:

175. **ROSS BLECKNER** (American, born 1949). ***SHR.*** Oil on canvas. 165 x 152.4 cm (65″ x 60″).

176. **ROBERT INDIANA** (American, 1928-2018). ***Yield Brother II, Homage to Kennedy,*** 1963. Oil on canvas. 215.01 x 215.01 cm (approx. 84 ⅝″ x 84 ⅝″).

177. **ELIZABETH PEYTON** (American, born 1965). ***Morrissey after Wolfgang.*** Oil on canvas. 76.2 x 60.96 cm (30″ x 24″).

The following four paintings were stolen from a warehouse in La Quinta, CA on October 6, 2006. *L22.2157:

178. **ROBERT COMBAS** (French, born 1957). ***L'uragnome,*** 1999. Mixed media and collage on canvas. 38.99 x 46 cm (approx. 15 ⅓″ x 18 ⅛″). Signed.

179. **ROBERT COMBAS.** ***Painting on electric guitar,*** 1995-1999. Painting on electronic guitar. 95 x 33 cm (approx 37 ½″ x 13 ″). Signed on the verso.

180. **ALLEN JONES** (English, born 1937). ***Pianoforte,*** 1999. Oil on canvas. 165 x 130 cm (approx. 65″ x 51 ⅛″). Signed on the verso.

181. **A. R. PENCK** (German, 1939-2017). ***Red Planet,*** 1999. See color photo on inside back cover.

The following five paintings were stolen in transit in Dallas, TX on September 23, 2020. *L20.1637:

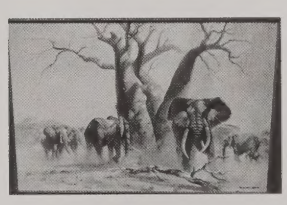
182. **GRACE FOSTER** (American, 1879-1931). ***Untitled.*** Oil on board. 21.59 x 24.21 cm (8 ½″ x 11″). Signed l/r.

183. **DONALD GRANT** (English, 1924-2001). ***Old Bull Standing Ground.*** Oil on canvas. 76.2 x 127cm (30″ x 50″). Signed l/r.

184. **JESSIE MAY PALMER** (American, 1882-1956). ***Impressionist Texas Landscape.*** Oil on board. 22.86 x 30.48 cm (9″ x 12″).

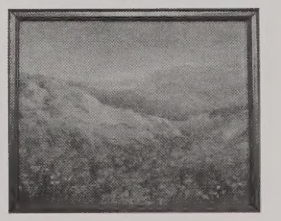
185. **Unknown Artist** (20th century). ***Indian Paintbrush in a Valley.*** Oil on canvas. 25.4 x 30.48 cm (10″ x 12″).

182



183

184



185

STOLEN ART

186. **Unknown Artist** (19th century). ***Mother and Child,*** 1844. Oil on canvas. 116.84 x 96.52 cm (46″ x 38″).

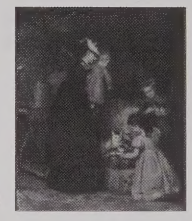
186

The following two paintings were stolen from a conservator's doorstep in New Orleans, LA on August 26, 2022. *L22.1888:

187. **ACHILLE-ÉMILE OTHON FRIESZ** (French, 1879-1949). ***Landscape Paysage Provençal.*** Oil on panel. 53.34 x 63.5 cm (21″ x 25″). Signed l/l.

187

188. **WILHELM SCHUTZE** (German, 1840-1898). ***Pick of the Litter,*** 1873. Oil on canvas. 76.2 x 60.96 cm (30″ x 24″). Signed l/l.



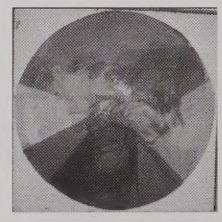
188

The following two paintings were stolen from a private residence in Sussex, England on July 1, 2019. *L19.1945:

189. **TERRY FROST** (English, 1915-2003). ***Abstract Cornish,*** c, 1970. Oil wash and/ or watercolor wash. 72 x 42 cm (approx. 28 34″ x 16 ½″).

189

190. **EDWARD GIOBBI** (American, born 1926). ***Abstract,*** 1959. Oil on board. 58 x 58 cm (approx. 22 ⅞″ x 22 ⅞″)



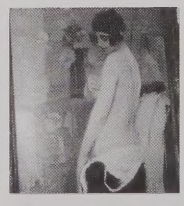
190

The following four paintings were stolen from a private residence in Ekali, Greece between November 16, 2019 and November 22, 2019. *I20.98. IPGS case ref. 2020/67:

191. **APOSTOLOS GERALIS** (Greek, 1886-1983). ***Standing Man.*** Oil on canvas.

191

192. **APOSTOLOS GERALIS.** ***Standing Nude Female.*** Oil on canvas. 100 x 80 cm (approx. 39 ⅜″ x 31 ½″).



192

193. **VASSILIOS GERMENIS.** ***Sitting Woman.*** Oil on canvas. 78 x 73 cm (approx. 30 ¾″ x 28 ¾″).

193

194. **ANTONIS KANAS** (Greek, 1915-1995). ***Village Scene, Man with a Donkey.*** Oil on canvas. 63 x 80 cm (approx. 24 ¾″ x 31 ½″). Signed l/r.

194

The following eight paintings were stolen from a private residence in Moscow, Russia on April 29, 2019. *L19.2072:

195

195. **BORIS GRIGORIEV** (Russian/French, 1886-1993). ***Girl in the Yard,*** 1918. Oil on canvas. 65.99 x 42.01 cm (approx. 26″ x 16 ½″).

196

196. **VASILY ALEXANDROVICH KOTARBINSKY** (Russian, 1829-1921). ***Two Female Beauties.*** Oil on canvas. 68 x 46 cm (approx. 26 ¾″ x 18 ⅛″).

197

197. **PAVEL OSIPOVICH KOVALEVSKY** (Russian, 1843–1903). ***The Road Home,*** 1884. Oil on canvas. 43 x 51.4 cm (approx. 17″ x 20 ¼″).

198

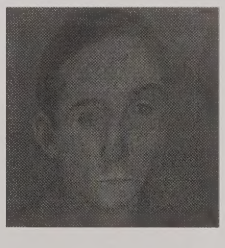
198. **W.D. POKNOV** (Russian, 1844-1927). ***Sunset in Berestovets***. Oil on panel. 9.5 x 17.5 cm (approx. 3 ¾″ x 6 ⅞″).

199

199. **FRANZ ROUBAUD** (Russian/French, 1856-1928). ***A Game of Buzkashi.*** Oil on canvas. 80 x 125 cm (approx. 31 ½″ x 49 ¼″).

200

200. **IVAN SHISHKIN** (Russian, 1832-1898). ***Pine Forest,*** 1870. 55 x 40.7 cm (approx. 21 ⅝″ x 16″).



201

201. **PAVEL TCHELITCHEW** (Russian, 1898-1957). ***Portrait of Jacques Stettiner.*** Oil and coffee grounds on canvas. 64 x 53.5 cm (approx. 25 ¼″ x 21″).

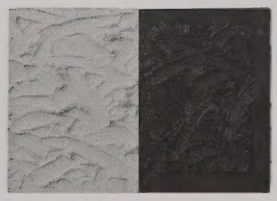
202

202. **STANISLAV YULIANOVICH ZHUKOVSKY** (Russian, 1873-1944). ***Interior of a Palace,*** 1924. 76.7 x 79 cm (approx. 30 ¼″ x 31″).

The following two paintings were stolen from a storage unit in Irvine, CA on August 2, 2020. *L20.1542:

203

203. **MARCIA HAFIF** (American, 1929-2018). ***Untitled (Still Life),*** 1950. Oil on canvas. 45.72 x 55.88 cm (18″ x 22″).



204

204. **JAMES HAYWARD** (American, born 1943). ***Abstract Diptych #3***. Oil on canvas. 38.1 x 53.34 cm (15″ x 21″).

STOLEN ART

The following two paintings were stolen from a private residence in Lithuania on March 8, 2020. *L21.217:

205. **ADRIANA JOHANNA HAANEN** (Dutch, 1814-1895). ***Still Life with Roses***. Oil painting. 41 x 38 cm (approx. 16 ⅛″ x 15″). Signed l/l.

206. **YULIY YULEVICH KLEVER** (Russian, 1850-1924). ***The Way Home,*** 1909. Oil on canvas. 64.75 x 50 cm (approx. 25 ½″ x 19 ¾″).

The following two paintings by **RICHARD HAWKINS** (American, born 1961) were stolen from a Los Angeles gallery on March 29, 2021. *L21.390:

207. ***Asylum Guard,*** 2011. Oil on canvas. 60.96 x 91.44 cm (24″ x 36″).

208. ***President Andrew Ethnocidal Jackson,*** 2004. Oil on canvas. 60.96 x 91.44 cm (24″ x 36″).

The following four paintings on cardboard were stolen from a gallery in Bucharest, Romania between December 2020 and June 2021. IPGS case ref. 2022/35. *I22.26:

209. **LOSIF ISER** (Romanian, 1881-1958). ***Harlequin,*** 1940. Oil on cardboard. 61.5 x 46 cm (approx. 24 ¼″ x 18 ⅛″). Signed and dated l/r.

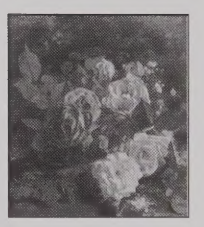
210. **SAMUEL MUNTZNER** (Romanian, 1884-1959). ***Landscape with Lake,*** 1950. Painting on cardboard. 49.5 x 64.5 cm (approx. 19 ½″ x 25 ⅜″). Signed and dated l/l.

211. **NICOLAE M. TONITZA** (Romanian, 1886-1940). ***Wild Roses.*** Oil on cardboard. 20 x 25 cm (approx. 7 ⅞″ x 9 ⅞″). Signed u/l.

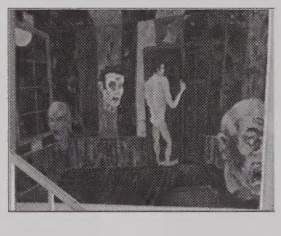
The following two paintings were stolen from a private residence in Plzen, Czech Republic between July 15, 2021 and August 17, 2021. IPGS case ref. 2022/34. *I22.25:

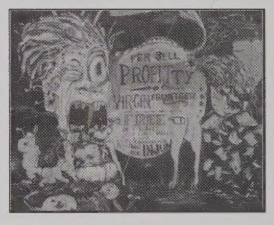
212. **ANTONIN PROCHÁZKA** (Czech, 1882-1945). ***Still Life with Apricots,*** c. 1920-23. Oil on canvas. 50 x 70 cm (approx. 19 ¾″ x 27 ½″).

213. **VÁCLAV ŠPÁLA** (Czech, 1885-1946). ***Mill on the River Ottawa,*** c. 1900. Oil on canvas. 80 x 100 cm (approx. 31 ½″ x 39 ⅜″).

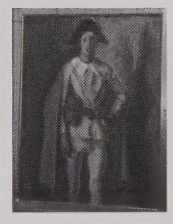

205

206


207



208


209

210

211

212

213

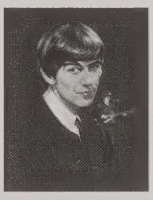
215

214

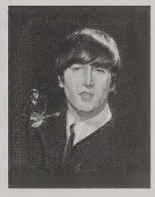
The following two paintings were stolen from a private residence in Huy, Belgium on August 27, 2019. *I20.8. IPGS case ref. 2019/242:

214. **HUBERT VAN RAVESTEYN** (Dutch, 1638-1691). ***Two Farmers.*** Oil on panel. 24.3 x 20.2. cm (approx. 9 ½″ x 8″). Monogrammed l/r.

215. **JACOB SCHALCKEN** (Dutch, 1683-1733). ***Scholar in Meditation.*** Oil on canvas. 30.22 x 22.3 cm (approx. 12″ x 8 ¾″).

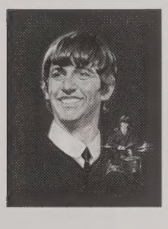


216



217

218



219

The following four works by **NICHOLAS VOLPE** (American, 1911-1992) were stolen from a private residence in Quebec, Canada on April 20, 2015. *I20.97. IPGS case ref. 2020/87:

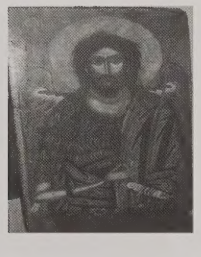
216. ***Portrait of George Harrison,*** 1964. Painting on canvas.

217. ***Portrait of John Lennon,*** 1964. Painting on canvas.

218. ***Portrait of Paul McCartney,*** 1964. Painting on canvas.

219. ***Portrait of Ringo Starr,*** 1964. Painting on canvas.

ICONS



220

220. **Unknown Artist** (Greek, 18th century). ***Saint John Prodromos (Forerunner).*** Painting on panel. 70 x 30 cm (approx. 27 ½″ x 11 ¾″). IPGS case ref. 2021/280. *I22.16. Stolen from a church in Kerasia, Greece between August 29, 2020 and September 27, 2021.

221

The following two icons were among nine stolen from a church in Plikati Konitsa, Greece on July 8, 2019. *I20.5. IPGS case ref. 2019/284:

221. **Unknown Artist** (19th century). ***Saint Demetrius.*** Painting on panel. 40 x 28 cm (approx. 15 ¾″ x 11″).

222

222. **Unknown Artist** (19th century). ***Saint Kyriaki.*** Painting on panel.

STOLEN ART

MIXED MEDIA

The following two works were stolen from a storage facility in Southampton, NY on July 22, 2020. *L20.1439. See also nos. 175-177 above; 245, 246; 261, 262; 264 below:

223. **DAVID SALLE** (American, born 1952). ***Decline in Popularity,*** 1985. Acrylic, oil, charcoal and printed fabric collage on three attached canvases. 190.5 x 264.2 cm (75″ x 104″).

224. **MANOLO VALDÉS** (Spanish, born 1942). ***Portrait of a Lady,*** 1989. Oil, gold paint, twine, staples, paper and mixed media on burlap. 190.2 x 114.94 cm (73 ¾″ x 45 ¼″). Signed on the verso.

223

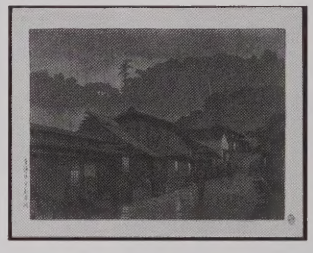
224

WORKS ON PAPER

225. **HANS HARTUNG** (German/French, 1904-1989). ***K.P.1974-10,*** 1974. Drawing on cardboard. 37.5 x 26 cm (approx. 14 ¾″ x 10 ¼″). IPGS case ref. no. 2021.265. *I22.19. Stolen from a warehouse in Brussels, Belgium between 2014 and July 2021.

225

226. **KAWASE HASUI** (Japanese, 1883-1957). ***Tokaido Utsunoya Toge (Utsunoya Pass on Tokaido),*** 1947. Watercolor. 31.75 x 41.91 cm (12 ½″ x 16 ½″). Bears the collector's seal of James D. Tobin (1893-1992). *L19.1654. Stolen in transit between Chicago, Il and Memphis, TN on June 4, 2019.



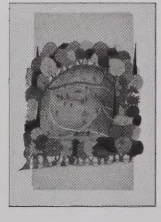
226

227. **WALTER RICHARD SICKERT** (English, 1860-1992). ***The Horses of St. Mark's,*** 1901. Watercolor and charcoal on paper. 54.99 x 43 cm (approx. 21 ⅝″ x 17″). Signed l/r. *L20.227. Stolen from a private residence in London, England on December 16, 2019.

227

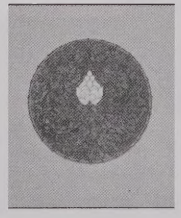
The following two works by **VEEDA AHMED** (Indian, contemporary) were stolen in transit in Doha, Qatar on June 27, 2019. *L19.2192:

228. ***A Day in the Park,*** 2017. Watercolor and shell gold on "Vasli" paper. 35.5 x 29 cm (approx. 14″ x 11 ⅜″).



228

229. ***Serenity,*** 2017. Watercolor, shell gold and malachite on "Vasli" paper. 35.5 x 22.5 cm (approx. 14″ x 8 ⅞″).



229

231

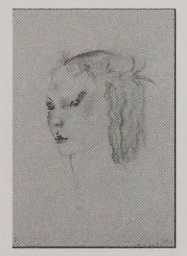
230

The following two drawings by **PETER WALKER** (American, contemporary) were among five stolen from a private residence in San RafaeL CA on December 9, 2019. *L20.112:

230. ***Porsche Design,*** 2015. Graphite on paper. 60.96 x 35.86 cm (24″ x 14″). Signed/dated on the verso.

231. ***See and Be Seen,*** 2014. Graphite on paper. 55.88 x 86.36 cm (22″ x 34″).

232



233

The following six works on paper were among 18 stolen from a private residence in Erkrath, Germany on August 8, 2019. *L19.1735. See also nos. 160-165 above and 247-251 below:

232. **LOVIS CORINTH** (German, 1858-1925). ***Portrait of Thomas Corinth,*** 1922. 31.3 x 25 cm (approx. 12 ¼″ x 9 ¾″). Chalk on paper. Signed/dated u/l.

234

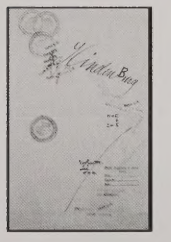
233. **MARIE LAURENCIN** (French, 1883-1956). ***Head of a Girl,*** Black chalk, red ink and pencil on paper. 26.01 x 18.49 cm (approx. 10 ¼″ x 7 ¼″). Signed in red pencil l/r.

235

234. **MAX LIEBERMANN** (German, 1847-1935). ***Tree-lined Street.*** Coal and white chalk on paper. 11 x 14.6 cm (approx. 4 ¼″ x 5 ¾″). Monogrammed on l/r.

236

235. **JULES PASCIN** (Bulgarian, School of Paris, 1885-1930). ***The Big Tree in Havana.*** Watercolor. 20 x 26 cm (approx. 7 ¾″ x 10 ¼″). Signed l/r.



237

236. **JULES PASCIN.** ***Two Girls Lying Down,*** 1928. Pencil on paper. 38.2 x 44.3 cm (approx. 15″ x 17 ½″). On the verso: signed in pencil l/r.

237. **KURT SCHWITTERS** (German, 1887-1948). ***Untitled,*** (Hindenburg), 1923. Stamps with pen and ink on paper. 33 x 20.8 cm (approx. 13″ x 8 ¼″). Signed/dated l/l/c. Inscribed u/r: Hindenburg.

STOLEN ART

238. **Unknown Artist** (Italian, 18th century). ***Holy Family.*** Red chalk drawing on paper. Drawing measures 58.42 x 33 cm (23″ x 13″). Monogram l/l. Matted and framed. On the back of the frame: a letter from Gallerie Marcello Aldega. *L21.224. Stolen in transit in Philadelphia, PA on February 25, 2021.

238

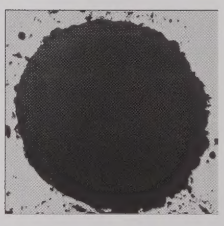
PRINTS, LITHOGRAPHS, ETCHINGS

The following four prints were stolen from a private residence in Tarzana, CA on August 2, 2020. *L20.1659:

239. **KEN PRICE** (American, 1935-2012). ***Living with Rocks,*** 2008. Lithograph on paper. 35.56 x 35.56 cm (14″ x 14″). Signed l/r. One of a set in the limited edition Artists for Obama series.

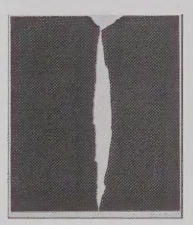
239

240. **RICHARD SERRA** (American, born 1938). ***Al Green,*** 1999. Lithograph on paper. 38¾ x 40 ⅜ in. (984 x 1025 mm.) Signed and dated l/r. Ed. no. 20/31.



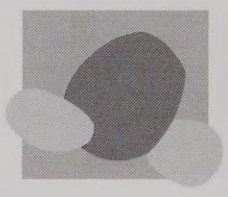
240

241. **RICHARD SERRA.** ***Penn. Ship,*** 1987. Lithograph on paper. 147 x 127 cm. (57.9 x 50 in.) Signed l/r. Ed. no. 23.



241

242. **JOEL SHAPIRO** (American, born 1941). ***Go for Obama,*** 2012. Lithograph on paper. 30.5 × 35.6 cm (12″ × 14″). Ed. no. 130. One of a set in the limited edition Artists for Obama series.



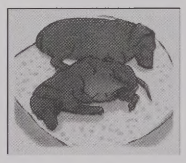
242

The following two works were stolen from a New York apartment on June 17, 2020. *L20.1160:

243. **DAVID HOCKNEY** (English, born 1937). ***Celia,*** 1976. Etching on Rives BFR paper. 68. 3 x 54 cm (26 ⅞″ x 21 ¼″).

243

244. **DAVID HOCKNEY.** ***Red Dogs,*** 1995. Etching and aquatint on Somerset wove paper. 57.15 x 62.88 cm (22 ½″ x 24 ¾″). Ed. no. 80/80. Signed in pencil. Picture shown is not the work that was stolen.



244

245

246

The following two works were stolen from a storage facility in Southampton, NY on July 22, 2020. *L20.1439. See also nos. 175-177; 223, 224 above; 261, 262; 264 below:

245. **FRANCIS BACON** (British, 1909-1992). ***Second Version of Triptych, 1944, 1988, 1989.*** Three lithographs on Arches wove paper. Signed in pencil l/r and inscribed "E.A." 198.12 x 147.32 cm (78″ x 58″).

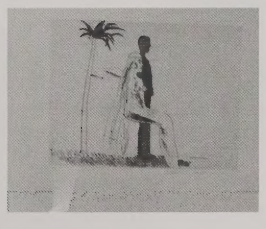
246. **ROY LICHTENSTEIN** (American, 1923-1997). ***Water Lilies with Japanese Bridge,*** 1992. Screen printed enamel on stainless steel. 211 x 147 cm (approx. 83″ x 57 ¾″).

The following three prints were stolen from a private residence in Erkrath, Germany on August 8, 2019. *L19.1735. See also item nos. 160-165 and 232-237 above:

247. **DAVID HOCKNEY** (English, b. 1937). ***The Marriage,*** 1962. Etching. 30.2 x 40 cm (approx. 12″ x 15 ¾″). Ed. no. l/l: 56/75.

248. **JOAN MIRÓ** (Spanish, 1893-1983). ***Little Girl with Wood,*** 1952. Lithograph on vellum. 50 x 64 cm (approx. 19 ⅝″ x 25 ¼″).

249. **ANDY WARHOL** (American, 1928-1987). ***Bunte,*** 1984. Serigraph on vellum. 85.3 x 69.8 cm (approx. 33 ⅝″ x 27 ½″). Signed/numbered in pencil l/l. Ed. no. 463/500.



247

248

249

The following two prints were stolen from a private residence in Huntington Beach, CA on November 2, 2021. *L21.1715:

250

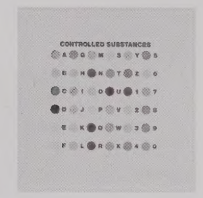
251

250. **JIM DINE** (American, born 1935). ***Color on Her.*** Copperplate etching of Venus de Milo with hand-sponged color. 121.92 x 34.29 cm (48″ x 13 ½″). Signed. Ed. no. 4/11.

251. **ROY LICHTENSTEIN** (American, 1923-1997). ***I Love Liberty,*** 1982. Screen print on arches 88 paper. Ed. no. AP 9/73. Signed l/r.

STOLEN ART

The following prints were stolen from a private residence in Hong Kong on July 29, 2016. *L21.549:



252

252. **DAMIEN HIRST** (English, born 1965). ***Controlled Substance Key Spot Meprobamate.*** A pair, both ed. no. 37/150.

253. **BRIDGET RILEY** (English, born 1931). ***Winged Curve.*** Ed. no. 42/75.

253

254. **BRIDGET RILEY.** ***Edge of Light.*** Ed. no. 54/85.

254

The following three prints by **DAVID HOCKNEY** (English, born 1937) were stolen from a gallery in London, England on February 4, 2015. *L20.111:

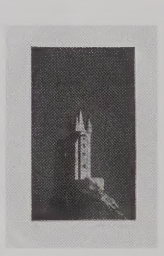
255

255. ***A Black Cat Leaping,*** 1969. Etching and aquatint on paper. 23.5 x 27 cm (approx. 9 ¼″ x 10 ⅝″). Ed. no. 52/100. Signed l/r. On the verso: no. GM64929.

256. ***The Drooping Plant,*** 1986. Homemade print on paper. 27.5 x 21.5 cm (approx. 10 ¾″ x 8 ½″). Ed. no. 28/46. On the print verso, in pencil: no. GM57181. On the frame verso: gallery label.

256

257. ***The Haunted Castle,*** 1969. Etching and aquatint on paper. 34.2 x 20.5 cm (approx 13 ½″ x 8″). Ed. no. 52/1100. On the verso: no. GM64927.



257

PHOTOGRAPHS

258. **JAMES ENSOR** (Belgian, 1860-1949). ***A hand-colored photograph from the painting Décor pour le ballet "La Gamme d'Amour (Flirt de Marionettes)" (2 éme Tableau: "La Place Publique"),*** 1914. Gelatin silver print. 22.8 x 28 cm (9″ x 11″). PF 1409. On the verso, top: signed and inscribed "Décor du pour mon ballet La Gamme d'Amour (Flirt de Marionettes)/Décor du 2 éme tableau representant [unknown] [unknown] décor et personnages/James Ensor 1914." *L20.2047. Stolen from a New York gallery between September 18, 2014 and August 2015.

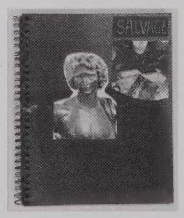
258

The following two photographic works by **RICHARD HAWKINS** (American, born 1961) were stolen from a Los Angeles gallery on March 29, 2021. *L21.390:

259. ***The Bust of Patroclus (William Henry Fox Talbot, casts, photography, stillness and time),*** 2007. Original spiral bound book, 36 pages in illustrated slipcase. 27.3 x 26.67 cm (10 ¾″ x 10 ½″).

259

260. ***Salvage,*** 2018. Original spiral bound book with 21 pages of acrylic and photograph collages. 22.86 x 30.48 cm (9″ x 12″).



260

The following two photographs were stolen from a storage facility in Southampton, NY on July 22, 2020. *L20.1439. See also nos. 175-177; 223, 224; 245, 246 above; 264 below:

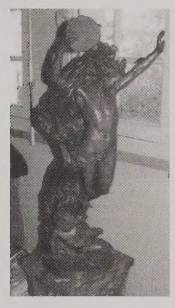
262

261

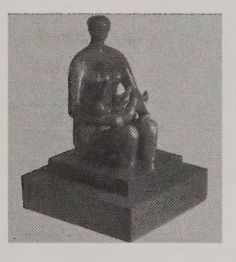
261. **PETER BEARD** (American, 1938-2020). ***Exiles on Main Street, Madison Square Garden,*** 1972. Gelatin silver print with blood, paint, and glove. 51.77 x 65.4 cm (approx. 20 ⅜″ x 25 ¾″).

262. **MARIKO MORI** (Japanese, born 1967). ***Head in the Clouds,*** 1996. Photograph in a lightbox. 180 x 120 cm (approx. 70 ¾″ x 47 ¼″).

SCULPTURE



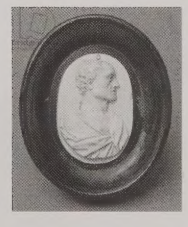
263



264

263. **JEAN-BAPTISTE CARPEAUX** (French, 1827-1875). ***The Genius of Dance.*** Bronze. 84.71 x 25.5 cm (approx. 33 ¼″ x 10″). Serial no. 2. *L21.1286. Stolen from a private residence in Soulac-sur-Mer, France on May 20, 2021.

264. **HENRY MOORE** (English, 1898-1986). ***Mother and Child: Round Form,*** 1980. Bronze. Ht: 18.14 cm (approx. 7 ⅛″). Signed and numbered on the back of the base. Ed. no. 9/9. *L20.1439. Stolen from a storage facility in Southampton, NY on July 22, 2020. See also nos. 175-177; 223, 224; 245, 246; 261, 262 above.



265

265. **Unknown Artist** (16th century). ***Isaac Newton.*** Ivory relief in wood frame. 10.5 x 6 x 2 cm (approx. 4 ⅛″ x 2 ⅜″ x ¾″). *L20.523. Stolen from Oxford University in England on November 10, 2018.

266

266. **Unknown Artist** (English, 16th century). ***Lee Monument Infants,*** 1584. Carved alabaster. The larger infant, approx. 17″ x 8″ x 7″; the smaller infant, approx. 12″ x 7″ x 7″. *L21.1624. Stolen from the Lee tomb at St. Mary the Virgin church in Aylesbury, England on October 10, 2021.

267

267. **Unknown Artist** (20th century). ***Saint Anthony with the Child Jesus,*** Wood. Ht: 80 cm (31 ½″). *I21.38. IPGS case ref. 2021/42. Stolen from a church in Neuendorf, Switzerland between March 13 and March 17, 2020.

268

268. **Unknown Artist** (Papua New Guinea, New Ireland Island). ***Uli.*** Polychrome wood. Ht″ 95 cm (approx. 37 ⅜″). *I21.141. IPGS case ref. 2021/102. Stolen from a museum in Prague, Czech Republic between January 1994 and December 2020.

STOLEN ART

The following two works were stolen from a garden in St. Petersburg, Russia between January 2017 and April 2018. *I21.105. IPGS case ref. 2021/249:

269. **Unknown Artist** (early 20th century). ***Cupid and Psyche.*** Marble. 170 x 80 cm (approx. 67″ x 31 ½″).

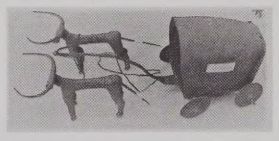
269

270. **Unknown Artist** (early 20th century). ***Abduction of the Sabine Women.*** Marble. Ht: 170 cm (approx. 67″).

270

ANTIQUITIES

271. **Unknown Artist** (Early Bronze Age). ***Chariot.*** Bronze. 16 .5 x 40 cm (approx. 6 ½″ x 15 ¾″). *I21.47. IPGS case ref. 2021/36. Stolen from a museum in Sanliurfa, Turkey between January 2001 and March 16, 2020.



271

PHOENICIAN ANTIQUITIES

The following three antiquities were stolen from the National Museum of Beirut, Lebanon on August 14, 1991. *L21.622:

272. **Unknown Artist** (Phoenicia, Hellenistic Period, 166-165 BC). ***Weight of Antiochus.*** Lead. Width: 8.5 cm (approx. 3 ⅓″). Wt: 251-255 g. Serial no: BMB8, pL 1:8.

272

273. **Unknown Artist** (Phoenicia, Hellenistic Period, 154-153 BC). ***Weight of Demetrius of Phoenicia.*** Lead. Width: 9.5 cm (approx. 3 ¾″). Showcase photo no. MNB800.

273

274. **Unknown Artist** (Phoenicia, Hellenistic Period). ***Weight of Maratos.*** Lead. Wt: 914 g. Showcase photo no. MNB800.

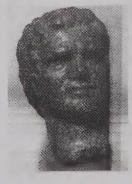
274

ROMAN ANTIQUITIES

275. **Unknown Artist** (Roman Period, 20 BC). ***Bust of Antonia, the Youngest.*** Marble. H: 50 cm (approx. 19 3.4″). With breaks in the nose, chin, and left cheek. *L20.953. Stolen from the Historical Interpretation Center of the Castle-Palace of the Ribera in Bornos, Spain on December 7, 2020.

275

276. **Unknown Artist.** ***Roman Emperor.*** Porphyry. Ht: 20.5 cm (approx. 8″). *W21.46. Confiscated by the Nazis from a private residence in Paris, France on May 1, 1941.



276

AFRICAN ART

277

277. **Unknown Artist**. ***Dogon Figure*** (Mali, late 19th-early 20th century). Wood. 110 x 20 x 20 cm (approx. 43 ¼″ x 7 ¾″ x 7 ¾″). *L21.1350. Stolen in transit in Dordognes, France on May 5, 2021.

RECOVERED ART*

PAINTINGS

47

47. **JOHN BRADLEY** (British/American, active in New York, 1832-1847). ***Portrait of Ann Totten,*** 1834. Oil on canvas. 82.55 x 67.31 cm (32 ½″ x 26 ½″). *N71.32. One of four portraits and other items stolen during a burglary from Historic Richmond Town, a museum in Staten Island, on the night of November 9, 1970. The three other portraits were recovered in Brooklyn in June 1971. In October 2021, a California folk art collector notified the museum that the portrait was listed in the website of Michaan's Auction House in Alameda, CA. The FBI seized the painting, and, later, the consignor, a retired art restorer, voluntarily relinquished it. The work was returned to Historic Richmond Town on May 26, 2022.

48

48. **WASSILY KANDINSKY** (Russian, 1866-1944). ***Painting with Houses,*** 1909. Oil on canvas. 97 x 13 cm (approx. 38 ¼″ x 51 ½″). Sold under duress by Robert Lewenstein and Irma Klein when they attempted to flee The Netherlands after the Nazi invasion. Acquired by the Stedelijk Museum in Amsterdam a few months later at auction in 1940. After a lengthy ownership dispute between the heirs of the Holocaust victims and the museum, in 2018 the Dutch Restitutions Committee decided that the museum could keep the painting. But in 2021 the city of Amsterdam sided with the claimants and restituted the painting to the heirs on February 28, 2022.

49

49. **WASSILY KANDINSKY** (Russian, 1866-1944). ***View of Murnau with Church.*** In 2013 the Van Abbemuseum in Eindhoven identified the painting as potentially looted art with a suspect provenance. The Hague art dealer Karl Alexander Legat sold the piece to the museum in 1951, claiming the former owner was a mysterious "A. Kaufmann." Alerted to the museum's findings, the heirs of Johanna Margarethe Stern-Lippmann, from whose collection the work had been taken after she fled to The Netherlands to escape the Nazis, filed a claim. In September 2022, the Dutch Restitutions Committee ruled that the painting be restituted to the heirs.

50

50. **Unknown Artist** (Flemish School, late 16th century). ***Villagers Celebrating the Kermesse of St. George (Kermis).*** Oil on panel. 73.7 x 106 cm (approx. 29″ x 41 ¾″).*L00.1700. Stolen from a private residence in London in 1987. Recovered with the help of the ALR from an auction house in New York after a search of the database in May 2022.

Numbering for the Vol. 21 Cumulative Index of Recovered Art began with Vol. 21, nos. 1&2.

RECOVERED ART

51. **Unknown Artist** (English School, late 18th century). ***The Witch.*** Oil painting. 80 x 55 cm (approx. 31 ½″ x 21 ⅝″). *L17.1903. Stolen from a private residence London, England in August 2017. Recovered with the help of the ALR from an auction house in Paris after a search of the database.

51

52. **HENRY TANWORTH WELLS** (English, 1828-1903). ***The Faggot Gatherer (Bethia Wale Holding Firewood),*** 1884. Oil on canvas. 111.7 x 86.3 cm (44″ x 34″). *L00.1188. Stolen from Holmbury St. Mary Village Hall in England in June 2000. Recovered with the help of the ALR in 2021.

52

The following paintings (see also item 57 below) were stolen from an art transport van in Boulder, CO on December 14, 2022. They were recovered from a hotel in Lakewood, CO in January 2023 after the thief offered to sell the works for $6,000 to someone who later notified the police:

53. **EANGER IRVING COUSE** (American, 1866-1936). ***Taos Pueblo at Night.*** Oil on canvas. 22. 8 x 30.5 cm (9″ x 12″). Signed l/l.

53

54. **JANE FREILICHER** (American, 1924-2014). ***Burnett's Barn,*** 1963. Oil on canvas. 101.6 x 152.4 cm (40″ x 60″).

54

55. **ERNEST MARTIN HENNINGS** (American, 1886-1956). ***Laguna Pueblo.*** Oil on canvas. 25.4 x 35.5 cm (10″ x 14″). Signed l/r. Titled on the verso.

55

56. **JOSEPH HENRY SHARP** (American, 1859-1953). ***View of the Taos Pueblo.*** Oil on board. 24.7 x 34.9 cm (9 ¾″ x 13 ¾″). Signed l/l.

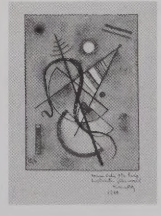
56

WORKS ON PAPER

57. **ELAINE DE KOONING** (American, 1918-1989). ***Untitled (Madrid Series #3),*** 1974. Casein on paper. 20.3 x 22.9 cm (8″ x 9″). (See items 53-56 above.)

57

58. **WASSILY KANDINSKY** (Russian, 1866-1944). ***Composition,*** 1928. Watercolor and ink on cardboard. 16.8 x 12 cm (approx. 6 ½″ x 4 ¾″). Signed, dated, and inscribed to Otto Ralfs in l.r. *85.557. Stolen from the exhibition "Concepts of Space in Contemporary Art" at the National Museum in Warsaw, Poland in June 1984 and sold at Sotheby's London in December 1984. (See *IFARreports,* Vol. 6, nos. 8&9, Oct/Nov 1985.) Sold at Grisebach auction house in Berlin on December 1, 2022 despite attempts by the Polish Ministry of Culture, which spotted the work in the auction sales catalogue, to have it withdrawn from the sale. Grisebach said it would put the sale on hold pending a judicial review on the part of the seller and buyer that would provide a "binding clarification" of the painting's status.



58

The following two works on paper by **PAUL KLEE** (Swiss, 1879-1940) were stolen from a New York gallery in July 1988 (*N89.88: see the *Stolen Art Alert,* Vol. 10, nos. 3&4, March, April 1989, items 239, 240; 250, 251) and recovered with the help of the ALR from an auction house in 2022 after a routine search of the database. A third work by Klee from the same theft, *Portrait in the Garden,* was recovered with the help of the ALR in 2009-2010 (see *IFAR Journal,* Vol. 11, no.s 3&4, 2010, inside back cover, recovered item 40):

59

59. ***Sein Schatten (His Shadow),*** 1934. Gouache on paper. 30.5 x 47.5 cm (approx. 12″ x 12 ½″). Signed u/r.

60

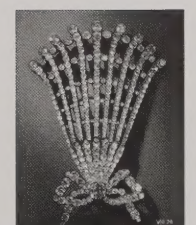
60. ***Kunst Streit (Art Quarrel),*** 1932. Ink on paper. 25.4 x 47.6 cm (approx. 10″ x 18 ¾″). Signed and dated c/r margin. Inscribed "US" and titled "Kunst Streit below the image.

61

61. **ADOLF WÖLFLI** (Swiss, 1864-1930). ***Saint Adolf Press.*** Pencil and crayon on paper. 31.8 x 47.1 cm (approx. 12 ½″ x 18 ½″). *C07.131. Stolen from a gallery in Cologne, Germany in November 2007. Recovered from an auction house in New York with the help of the ALR after a search of the database in January 2022.

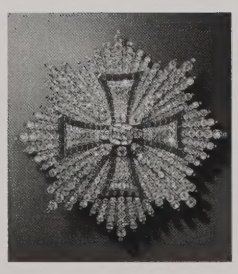
JEWELRY

On December 19, 2022, German police announced that on the night of December 16-17 in Berlin they, along with the public prosecutor's office in Dresden and the state office of criminal investigation, had recovered 31 of the pieces of jewelry stolen in a daring heist from the Green Vault in the Royal Palace in Dresden, Germany in November 2019. In May five men were convicted of the crime and sentenced to prison. The seizure occurred after "exploratory talks" between the defense and the prosecution teams. *L19.2474. Interpol case ref. 2019/256. (See *IFAR Journal,* Vol. 21, nos. 1&2.) Two of the recovered items appear below:



62

62. **AUGUST GOTTHELF GLOBIG** (German, 18th century). ***Heron Stump (hat ornament),*** c. 1782-1807. 359 diamonds of different sizes, silver, gold. Ht: 14.8 cm (approx. 5 ¾″). Inv. no. VIII 26.



63

63. **JEAN-JACQUES PALLARD** (1701-1776). ***Breast Star of the White Polish Eagle Order,*** 1746-49. Diamond, rubies, gold, silver.

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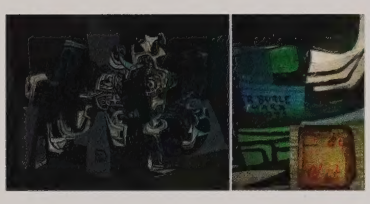

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STOLEN ART

Paintings

118. **ROBERTO BURLE MARX** (Brazilian, 1909–1994). ***Untitled.*** Painting. 120 x 160 cm (approx. 47 ¼″ x 63″). *L20.1984. Stolen in transit between Brazil and Newark, NJ on May 11, 2020.

127. **HENRI FANTIN-LATOUR** (French, 1836–1904). ***Flowers,*** 1885. Oil on canvas, 23 x 33.5 cm (approx. 9″ x 13 ¼″). *L20.1026. Signed and dated u/r. Stolen from the Hôtel des Ventes, Geneva, Switzerland on July 7, 1997.

139. **WOLE LAGUNJU** (Nigerian/American, born 1966). ***The Man Who Gazed at the Daylight Moon,*** 2021. Oil on canvas. *L21.1550. Lost in transit at a Fedex facility in Memphis, TN on October 13, 2021.

152. **VLADIMIR EVGRAFOVIČ TATLIN** (Russian and Soviet, 1885–1953). ***Composition with Transparent Planes,*** 1916. Tempera on panel. 105.51 x 56.39 cm (approx. 41 ½″ x 22 ¼″). Signed/dated on the verso. *L19.1656. Stolen in Moscow, Russia on November 4, 2016.

165. **JULES PASCIN** (Bulgarian, School of Paris, 1885–1930). ***Woman in an Armchair (Geneviève),*** 1926. Oil on canvas. 72 x 60 cm (approx. 28 ⅜″ x 23 ½″). Inscribed on the verso in black pencil l/r: "Geneviève par Pascin 1926 Blvd de Clichy, toile commencée 59 x 72, appartient á Lucy Krohg." *L19.1735. Stolen from a private residence in Erkrath, Germany on August 8, 2019. See also nos. 160-164.

168. **CHARLES LESLIE** (English, 1839–1886). ***Loch Ness.*** Oil painting. 76.2 x 127 cm (30″ x 50″). *L20.1974. One of four paintings stolen from a manor house in Crediton, Devon, England while the residents were out to dinner on November 22, 2020. See also nos. 166, 167, 169, 170.

181. **A. R. PENCK** (German, 1939-2017). ***Red Planet,*** 1999. Acrylic on canvas. 150.01 x 150.01 cm (approx. 59″ x 59″). Signed on the verso. *L22.2157. One of four paintings stolen from a warehouse in La Quinta, CA on October 6, 2006. See also nos. 178–180.

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